

CALIFORNIA COASTAL COMMISSION

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W14a

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Staff: KFS-LB
Staff Report: September 21, 2000
Hearing Date: October 10-13, 2000
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-97-367-A1

APPLICANT: Hellman Properties LLC

AGENT: Dave Bartlett

PROJECT LOCATION: Northeast of Pacific Coast Highway (State Route 1), Southeast of the San Gabriel River, South of Adolfo Lopez Drive, West of Seal Beach Boulevard, and North of Marina Hill; City of Seal Beach; County of Orange

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Subdivision of 196 acre site into 9 parcels, including further subdivision of one of the parcels into 70 single-family residential lots in a private community; fill of 27 acres of wetlands to construct 28.1 acres for a salt marsh restoration project and an 18 hole public golf course including 6.8 acres of freshwater marsh integrated into the golf course and reservation of 16.2 acres of existing oil production areas for future wetland restoration; dedication of Gum Grove Park to the City of Seal Beach; construction of interpretive areas, visitor-serving recreation facilities, and a golf clubhouse; dedication of public access trails; extension of Adolfo Lopez Drive; excavation of test pits for an archaeological testing program; and 1,600,000 cubic yards of grading.

DESCRIPTION OF PROPOSED AMENDMENT: The amendment request is to change the proposed project description to eliminate a 100 acre golf course and associated wetland impacts and wetland restoration; add a deed restriction reserving 100 acres of lowlands for acquisition for wetlands restoration; expand the footprint of the 70-lot residential subdivision from 14.9 acres to 18.4 acres; reduce mass grading from 1.6 million cubic yards to 420,000 cubic yards; eliminate proposed development on the State Lands Commission parcel, construct a bio-swale, riparian corridor and water quality basin and include changes to the language of previously imposed special conditions.

SUMMARY OF STAFF RECOMMENDATION:

Coastal Development Permit 5-97-367 was approved by the Commission in 1998. Since that time, the permit has been subject to a lawsuit and settlement agreement. This amendment has been submitted in response to the settlement agreement in an effort to carry out the terms of the settlement. The revised proposed project eliminates the golf course and the direct impacts upon wetlands which were previously controversial and carries forward a revised residential subdivision. In addition, the applicant is proposing to deed restrict, for wetland restoration purposes, 100 acres of

lowlands. Finally, the applicant is proposing a bio-swale and water quality basin to treat run-off from the proposed development.

The major issues raised by this revised proposed development are impacts upon ruderal uplands which presently provide foraging habitat for raptors and the maintenance of water quality. In addition, by addressing water quality issues and compensation for losses to raptor foraging habitat, some of the land the applicant is proposing for deed restriction for wetlands restoration, will be committed to supporting water quality treatment structures and providing replacement raptor foraging habitat. This situation results in potential constraints on future wetlands restoration in the lowlands. Staff is recommending **APPROVAL** of the project with special conditions. Special Condition 15 carries forward previously imposed special conditions. Special Condition 16 implements the proposed lowlands deed restriction and addresses the concern regarding the displacement of future wetlands restoration by requiring that any land which is in the proposed deed restricted area which is now going to be used for water quality and raptor foraging habitat purposes must be replaced by restriction of land elsewhere on the property for wetland restoration purposes. Special Conditions 17, 18 and 19 replace previously imposed Special Conditions 4 (Gum Grove Park dedication), 5 (Public Access Program) and 6 (Archeology), respectively, which must be updated to reflect the current amendment. Special Condition 20 requires the applicant to submit final plans regarding the water quality structures. Special Conditions 21 and 22 require the identification and deed restriction of at least 9.2 acres of raptor foraging habitat and the management of that habitat as raptor foraging habitat. Special Condition 23 requires the applicant to implement the proposed water quality program (including bio-swale and detention basin) and mandates that such facilities be designed to mitigate runoff up to the 85th percentile 24-hour event. Special Condition 24 requires the deed restriction of land to support the required water quality treatment system. Special Condition 25 addresses construction related requirements to avoid impacts to existing wetlands. Special Condition 26 requires strict compliance with the proposal as conditioned by the Commission.

LOCAL APPROVALS RECEIVED and SUBSTANTIVE FILE DOCUMENTS: See Appendices

PROCEDURAL NOTE:

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

B. Standard of Review

The City of Seal Beach does not have a certified local coastal program ("LCP"). Therefore, the standard of review is the Chapter 3 policies of the Coastal Act.

C. Permit Expiration

The proposed development is being processed as an amendment to Coastal Development Permit 5-97-367 which was approved on September 9, 1998. Standard Condition 2 of the permit states that the permit expires two years from the date on which the Commission voted on the application, September 9, 1998. Therefore, under normal circumstances, unless an extension was requested and approved, the permit would have expired in September 2000. However, Coastal Development Permit 5-97-367 is subject to litigation and a settlement agreement which serve to toll the permit as of December 29, 1999 (Superior Court of California, County of Orange, Case #801830 and Case #807590). Therefore, Coastal Development Permit 5-97-367 has not expired. The tolling on the permit will cease once the case is dismissed or litigated to conclusion.

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION

STAFF RECOMMENDATION:

Staff recommends that the Commission APPROVE the amendment application with special conditions.

MOTION:

I move that the Commission approve CDP Amendment #5-97-367-A1 pursuant to the staff recommendation.

Staff recommends a YES vote. Passage of this motion will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

APPROVAL WITH CONDITIONS

The Commission hereby APPROVES the amendment to Coastal Development Permit 5-97-367, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, would be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, including the public access and

recreation policies of Chapter 3, would not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and would not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS (These conditions supplement the previously adopted conditions; deletions and modifications are also noted)

15. PRIOR CONDITIONS

Unless specifically altered by this amendment, all regular and special conditions attached to coastal development permit 5-97-367 remain in effect.

Please Note: Special Conditions 1, 3, 4, 5, 6, 11, 12, 13 and 14 imposed under Coastal Development Permit 5-97-367 (see Appendix A) have been deleted as a result of this coastal development permit amendment (5-97-367-A1). Several of these conditions have been replaced by subsequent conditions, as follows: Special Condition 1 has been replaced by Special Condition 16; Special Condition 4 has been replaced by Special Condition 17; Special Condition 5 has been replaced by Special Condition 18; and Special Condition 6 has been replaced by Special Condition 19.

16. RESERVATION OF POTENTIAL FOR LOWLANDS ACQUISITION FOR WETLANDS RESTORATION

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and of content acceptable to the Executive Director which shall provide that:

- (1) For a period of twenty-five years, the applicant agrees to sell the lowlands area of the property as defined in "Attachment 1" (as revised pursuant to subsection B. of this condition) to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property;
- (2) The sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and,
- (3) The uses shall be restricted to wetlands restoration, open space and environmental education purposes, with reversion rights to the State Coastal Conservancy.

The deed restriction shall remain in effect for twenty-five years and be recorded over the lowlands area of the property and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a revised "Attachment 1" consisting of a map, prepared by an appropriately licensed professional, which (i) depicts the area to be deed restricted pursuant to subsection A. of this condition, (ii) which maintains this restriction over at least 100 acres, (iii) which removes those areas necessary for the bio-swale and water quality basin and raptor foraging habitat from the area to be deed restricted pursuant to subsection A. of this condition and (iv) which off-sets the removal of those areas from the deed restriction with other land within the project site suitable for a deed restriction pursuant to subsection A. of this condition.

Note: Special Condition 16 replaces Special Condition 1 in its entirety.

17. GUM GROVE PARK

PRIOR TO THE ISSUANCE OF RESIDENTIAL BUILDING PERMITS, the applicant shall submit, for the review and approval of the Executive Director, written evidence demonstrating that the area known as Gum Grove Nature Park and as delineated as Lot 3 of proposed Vesting Tentative Tract Map 15381 has been dedicated in fee to the City of Seal Beach, as proposed by the applicant. The dedication documents shall provide that:

- (a) The park shall be preserved in perpetuity as a passive recreational nature park open to the public. Active recreational activities or commercial facilities shall be prohibited.

- (b) Necessary parking facilities which are the minimum required to serve the park and which meets Americans with Disabilities Act requirements shall be provided. The existing twenty (20) striped parking spaces for Gum Grove Park shall be maintained.
- (c) All trails within the dedicated park area shall be constructed to be accessible to persons with disabilities consistent with the Americans with Disabilities Act requirements. No trails shall be lighted in order to minimize impacts on wetlands.
- (d) Small scale interpretive signage which describes the Monarch Butterfly may be permitted if approved by the Executive Director.
- (e) Gum Grove Park shall be open from dawn to dusk (one hour after sunset) on a daily basis. Changes in hours of operation of Gum Grove Park shall require an amendment to this permit unless the Executive Director determines that an amendment is not required.
- (f) Signage shall be conspicuously posted which states that the park is open to the general public.
- (g) That portion of proposed Lot 3 of Tentative Tract Map No. 15381, comprised of an approximately 25 foot wide strip of land which borders Seal Beach Boulevard and extends west from Seal Beach Boulevard to connect with the primarily used part of Gum Grove Park, shall be subject to the following requirements:
 - (1) The frontage along Seal Beach Boulevard shall not be gated, fenced, or obstructed in any manner which prevents public access from Seal Beach Boulevard.
 - (2) The area shall be reserved for a public trail and parking lot, which are visible, and directly accessible to the public from Seal Beach Boulevard, and which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west. The public parking lot area shall be large enough for a minimum of ten (10) parking spaces. Where it is not feasible to reserve enough public parking area on this portion of proposed Lot 3, public parking directly accessible from Seal Beach Boulevard shall be provided for on proposed Lot 2 of Tentative Tract Map No. 15381 adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 18.B. of this permit.

Note: Special Condition 17 replaces Special Condition 4 in its entirety.

18. PUBLIC ACCESS PROGRAM

- A. Public Access Signage.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a detailed signage plan which provides for the installation of signs clearly visible from Pacific Coast Highway and Seal Beach Boulevard which invite and encourage the public to use the public access, parking, and recreation opportunities proposed at Gum Grove Park, and the public access trail and public parking linking Gum Grove Park to Seal Beach Boulevard. Key locations include but are not limited to; 1) Gum Grove Park, both at its western entrance and

at the proposed Seal Beach Boulevard entrance. The plans shall indicate the location, materials, dimensions, colors, and text of the signs. The permittee shall install the signs in accordance with the signage plans approved by the Executive Director.

- B. Residential Community Streets (Vesting Tentative Tract Map No. 15402).** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that: 1) public pedestrian and bicycle access to the streets and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402 shall not be precluded, 2) no locked gates, walls, fences, or other obstructions prohibiting public pedestrian or bicycle access to the streets and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402 shall be permitted, 3) no requirement to allow public vehicular access over the private streets is necessary if the applicant is willing to provide public parking within Gum Grove Park and a separate vehicular entrance from Seal Beach Boulevard to said public parking, 4) if fewer than the ten (10) public parking spaces required by Special Condition 17.(g)(2) of this permit can be constructed on proposed Lot 3 of Vesting Tentative Tract Map No. 15381, the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3 shall be reserved for the balance of the public parking spaces so that the parking spaces are directly accessible from Seal Beach Boulevard. The deed restriction shall be recorded over the entire area subject to Vesting Tentative Tract Map No. 15402 and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- C. Revised Vesting Tentative Tract Map No. 15402.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two copies of a revised vesting tentative map for Tract No. 15402 if: (1) all of the ten public parking spaces required under Special Condition 17.(g)(2) cannot be built on proposed Lot 3 of Vesting Tentative Tract Map 15381, and/or (2) the entities with jurisdiction over Seal Beach Boulevard do not approve a separate vehicular entrance off of Seal Beach Boulevard to said public parking spaces. The revised map shall show: (1) the locations and design of said public parking spaces which cannot be built on Lot 3 and instead shall be built on the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3, and 2) the location of the public street which connects the public parking required under Special Condition 17.(g)(2) of this permit with the entrance to the subdivision proposed by Vesting Tentative Tract Map No. 15402. The revised map shall be accompanied by written documentation demonstrating that the governmental agencies which have jurisdiction over Seal Beach Boulevard and parking space standards have approved the revised map. The applicant shall record the revised map approved by the Executive Director.
- D. Construction of Trail and Parking Lot.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE HOUSES WITHIN THE AREA SUBJECT TO VESTING TENTATIVE TRACT MAP NO. 15402, the applicant shall construct a public access trail and parking lot, which are visible and directly accessible to the public from Seal Beach Boulevard, which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west.

The public parking lot shall contain a minimum of ten (10) parking spaces and shall be directly accessible from Seal Beach Boulevard. Where it is not feasible to construct the public parking and vehicular entrance on this portion of proposed Lot 3 of Vesting Tentative Tract Map No. 15381, public parking directly accessible from Seal Beach Boulevard shall be constructed on proposed Lot 2 of Tentative Tract Map No. 15381 (i.e., the area subject to Vesting Tentative Tract Map No. 15402) immediately adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 18.B of this permit.

Note: Special Condition 18 replaces Special Condition 5 in its entirety.

19. **ARCHAEOLOGY**

For purposes of this condition, "OHP" shall mean the State Office of Historic Preservation, and "NAHC" shall mean the state Native American Heritage Commission.

- A. **Research Design**. The permittee shall undertake the proposed archaeological investigation in conformance with the proposed archaeological research design entitled A Research Design for the Evaluation of Archaeological Sites within the Hellman Ranch Specific Plan Area dated November 1997 prepared by KEA Environmental, Inc. for the City of Seal Beach. Prior to issuance of the coastal development permit, the applicant shall submit written evidence, subject to the review and approval of the Executive Director, that a copy of the archaeological research design has been submitted to the OHP, the NAHC, and the Native American person/group designated or deemed acceptable by the NAHC, for their review and comment. An amendment to this permit shall be required for any changes to the research design suggested by OHP, NAHC, or the Native American group/person unless the Executive Director determines that an amendment is not required.
- B. **Selection of Archaeologist(s) and Native American Monitor(s)**. The archaeologist(s) selected by the City shall meet the United States Department of Interior minimum standards for archaeological consultants, as also endorsed by the OHP. The City shall select the Native American monitor(s) in compliance with the "Guidelines for monitors/consultants of Native American cultural, religious and burial sites" issued by the NAHC, and in consultation with the appropriate Native American person/group deemed acceptable by the NAHC.
- C. **Post-Investigation Mitigation Measures**. Upon completion of the archaeological investigation, and prior to the commencement of construction of any development approved by this coastal development permit (other than archaeological investigation activities or subdivision), the applicant shall submit, for the review and approval of the Executive Director, a written report regarding the following: 1) a summary of the findings of the archaeological investigation, and 2) a final written mitigation plan which shall identify recommended mitigation measures, which may include capping of archaeological sites, data recovery and curation of important archaeological resources as defined by the California Environmental Quality Act, and detailed additional mitigation measures which need to be implemented. The applicant shall also submit for review and approval of the Executive Director, a signed contract with a City-selected archaeological consultant that provides for archaeological salvage that follows current accepted professional practice, if additional archaeological data recovery measures are determined appropriate. The written report and additional mitigation measures shall also be submitted to the OHP and the appropriate Native American

person/group designated or deemed acceptable by the NAHC. An amendment to this permit shall be required to implement any additional mitigation measures unless the Executive Director determines a permit amendment is not required.

- D. **Implementation of Mitigation Measures and Summary of Fieldwork.** Prior to commencement of site preparation, grading, and construction activities for any development (other than archaeological investigation activities) located within a fifty foot (50') radius of the furthest boundary of each state-identified archaeological site as delineated in the archaeological research design, all of the requirements of Special Conditions 19.A., 19.B., and 19.C. shall have been met. All development shall occur consistent with the final plan required by Special Condition 19.C. A written synopsis report summarizing all work performed in compliance with Special Conditions 19.A, 19.B, and 19.C shall be submitted to the Executive Director, OHP, and NAHC within six (6) weeks of the conclusion of field work. No later than six months after completion of field work a final report on the excavation and analysis shall be submitted to the Executive Director, OHP and the NAHC.
- E. **Monitoring of Construction Activities.** All site preparation, grading and construction activities for the proposed development shall be monitored on-site by a qualified archaeologist and Native American monitor. The archaeologist and Native American monitor shall have the express authority to temporarily halt all work in the vicinity of the discovery site should significant cultural resources be discovered. This requirement shall be incorporated into the construction documents which will be used by construction workers during the course of their work.

F. Discovery of Cultural Resources / Human Remains During Post-Archaeological Testing Construction Activities.

- (1) If additional or unexpected archaeological features are discovered during site preparation, grading, and construction activities for approved development other than the archaeological investigation, all work shall be temporarily halted in the vicinity of the discovery site while the permittee complies with the following:

The archaeologist, in consultation with the Native American monitor, shall sample, identify and evaluate the artifacts as appropriate and shall report such findings to the permittee, the City and the Executive Director. If the archaeological resources are found to be significant, the archaeologist, in consultation with the Native American monitor, shall determine appropriate actions, and shall submit those recommendations in writing to the Executive Director, the applicant and the City. The archaeologist shall also submit the recommendations for the review and approval of the Executive Director and shall be prepared in accordance with the provisions outlined in Special Condition 19.C above. Any recommended changes to the proposed development or the mitigation measures identified in the final plan required by Special Condition 19.C. shall require a permit amendment unless the Executive Director determines that a permit amendment is not required.

Development activities may resume if the cultural resources are not determined to be 'important' as defined by the California Environmental Quality Act (CEQA).

- (2) Should human remains be discovered on-site during the course of site preparation, grading, and construction activities, immediately after such discovery, the on-site City-selected archaeologist and Native American monitor shall notify the City of Seal Beach, Director of Development Services and the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted in the vicinity of the discovery site until the remains can be identified. The Native American group/person deemed acceptable by the NAHC shall participate in the identification process. Should the human remains be determined to be that of a Native American, the permittee shall comply with the requirements of Section 5097.98 of the Public Resources Code. Within five (5) calendar days of such notification, the director of development services shall notify the Executive Director of the discovery of human remains.

- G. Incorporation of Archaeology Requirements into Construction Documents.** Special Condition No. 19 of coastal development permit 5-97-367 shall be incorporated in its entirety into all the construction documents which will be used by construction workers during the course of their work as well as all construction bid documents.

Note: Special Condition 19 replaces Special Condition 6 in its entirety.

20. FINAL PLANS

- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director:

1. Final design, grading, construction, structural, and drainage plans for the bio-swale, riparian corridor and water quality basin that substantially conform with the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, submitted to the Commission; and
 2. Final landscape plans for the bio-swale, riparian corridor, and water quality basin that substantially conform with the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, submitted to the Commission, and the letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated June 28, 2000, regarding Biological Benefits of Proposed Wetland Treatment System, CDP 5-97-367-A1, Hellman Ranch Property, Orange County, California. These final plans shall be prepared in consultation with the California Department of Fish and Game and U.S. Fish and Wildlife Service and shall be accompanied by written evidence of their endorsement of the landscape plans.
- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- 21. REQUIREMENT FOR IDENTIFICATION OF SUITABLE RAPTOR FORAGING HABITAT AND REQUIREMENT FOR MANAGEMENT PLAN**
- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, a map, prepared by a biologist in accordance with current professional standards, delineating raptor foraging habitat with long term conservation potential available within the lowlands of the subject property as identified in the letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated September 11, 2000, regarding Response to June 19, 2000, letter from the California Department of Fish and Game Regarding Biological Resources at Hellman Ranch. The area delineated shall not be less than 9.2 contiguous acres of raptor foraging habitat. The delineation and site selection shall occur in consultation with the California Department of Fish and Game, and the map submitted to the Executive Director shall be accompanied by a written endorsement by the California Department of Fish and Game of the raptor foraging habitat delineation, the selected site and the map; and
- B.** The raptor foraging habitat to be identified in subsection A. of this condition shall have the same or better functions and values as the site to be impacted, in accordance with the biological assessment prepared by Glenn Lukos Associates in their letter dated September 11, 2000. If there are no raptor foraging habitat areas with the same or better functions and values as the site to be impacted in the area previously identified by the applicant as having such, the applicant shall obtain an amendment to this coastal development permit in order to remedy the discrepancy; and

- C.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, a raptor foraging habitat management plan which identifies management measures necessary to, at minimum, maintain the functions and values of the raptor foraging habitat identified in subsection B. of this condition. Such measures shall include appropriate brush management measures for the maintenance of raptor foraging habitat. Measures may include brush clearance and brush mowing; planting of plant species associated with raptor foraging habitat, and exotic and invasive plant species controls for the removal of plant species which upset the functioning of the raptor foraging habitat, including, but not limited to, ice plant, pampas grass, arundo giant cane, and myoporum. Any chemical controls to be used in areas adjacent to wetlands shall be limited to those which are non-toxic to wetland organisms (e.g. Rodeo® Herbicide). The raptor foraging habitat management plan shall be prepared in consultation with the California Department of Fish and Game, and shall be accompanied by a written endorsement of the plan by the California Department of Fish and Game. The permittee shall undertake development in accordance with the raptor foraging habitat management plan approved by the Executive Director. Any proposed changes to the approved raptor foraging habitat management plan shall be reported to the Executive Director. No changes to the approved raptor foraging habitat management plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

22. OPEN SPACE DEED RESTRICTION

- A.** No development, as defined in section 30106 of the Coastal Act shall occur in the raptor foraging habitat delineated by the map required pursuant to Special Condition 21 except for:
1. Activities related to raptor foraging habitat maintenance pursuant to the raptor foraging habitat management plan required pursuant to Special Condition 21.C.; and
 2. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: activities related to public access, recreation, and wetland restoration provided that such development continues to designate a minimum of 9.2 acres of equivalent or better functioning raptor foraging habitat.
- B.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which shows that the open space area identified pursuant to Special Condition 21 shall be restricted as open space for raptor foraging habitat and the deed restriction shall reflect the above restriction on development in the designated open space. The deed restriction shall contain the raptor foraging habitat management plan approved by the Executive Director pursuant to Special Condition 21.C. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

23. WATER QUALITY

- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final Storm Water Management and Water Quality Control Plan (SWM & WQCP) designed to mitigate stormwater runoff and nuisance flow from development on Vesting Tentative Tracts 15381 and 15402. The final SWM & WQCP shall include structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater and nuisance runoff leaving the developed site. The final plan shall be reviewed by the consulting engineering geologist to ensure conformance with geotechnical recommendations. The final plan shall demonstrate substantial conformance with the Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared by MDS Consulting of Irvine, California, dated January 2000, and the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, and the following requirements:
1. Post-development peak runoff rates and average volume from the developed site shall not exceed pre-development levels for the 2-year 24-hour storm runoff event.
 2. Post-construction treatment control BMPs shall be designed to mitigate (infiltrate or treat) stormwater runoff from each runoff event up to and including the 85th percentile 24-hour runoff event.
 3. The approved SWM & WQCP shall be implemented prior to or concurrent with the construction of infrastructure associated with the development on Vesting Tentative Tracts 15381 and 15402. The approved BMPs and other measures included in the final SWM & WQCP shall be in place and functional prior to the issuance of the first residential building permit within Vesting Tentative Tract 15402.
 4. All structural and non-structural BMPs shall be maintained in a functional condition throughout the life of the approved development. Maintenance activity shall be performed according to the recommended maintenance specifications contained in the California Stormwater BMP Handbooks (California Stormwater Quality Task Force, 1993) for selected BMPs. At a minimum, maintenance shall include the following: (i) all structural BMPs shall be inspected, cleaned and repaired, as needed prior to the onset of the storm season, no later than October 1st of each year and (ii) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
- B.** Any changes to the structures outlined in the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, including changes to the footprint of any such structures, necessary to accommodate the requirements of subsection A of this condition, shall require an amendment to this coastal development permit.

- C.** The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- D.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the requirements outlined in subsections A., B., and C. of this condition. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the deed restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

24. RESERVATION OF LAND FOR WATER QUALITY PURPOSES

- A.** The area of land containing the proposed water quality basin, bio-swale and riparian corridor, and associated appurtenances as depicted in Figure 8 (inclusive of the landscaped areas) of the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, shall be reserved for water quality improvement purposes through a deed restriction as required pursuant to subsection B. of this condition. The deed restriction shall not preclude use of the same such land for wetland restoration provided the water quality improvement functions of the system described in the SWM & WQCP, as revised and approved by the Executive Director pursuant to Special Condition 23, is, at minimum maintained. In addition, the deed restriction shall not preclude construction and maintenance of the access road depicted Figure 8, nor shall it preclude the construction and maintenance of the utilities and oil transmission lines depicted on Vesting Tentative Tracts 15381 and 15402, as approved by the Executive Director, provided the water quality improvement functions of the system described in the SWM & WQCP, as revised and approved by the Executive Director pursuant to Special Condition 23, is, at minimum maintained. Finally, the deed restriction shall not preclude development associated with the archaeological investigation required pursuant to Special Condition 19.
- B.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the deed restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

25. STAGING AREA FOR CONSTRUCTION

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to wetlands.

1. The plan shall demonstrate that:

- (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and
- (b) Construction equipment, materials, or activity shall not be placed in any location which would result in impacts to wetlands.

2. The plan shall include, at a minimum, the following components:

(a) A site plan that depicts:

- (1) limits of the staging area(s)
- (2) construction corridor(s)
- (3) construction site
- (4) location of construction fencing and temporary job trailers with respect to existing wetlands

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

26. PERMIT COMPLIANCE

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth herein. Any deviation from the approved plans must be reviewed and approved by the Executive Director and may require Commission approval.

IV. FINDINGS AND DECLARATIONS

A. Detailed Site Description and Amended Project Description

The subject site totals approximately 196.6 acres. Of that amount, the applicant owns approximately 183.9 acres (93% of the site). Southern California Edison utility company owns a 7.9 acre easement (4%). The California State Lands Commission owns a parcel totaling 3.4 acres (2%). Finally, the City of Seal Beach owns a parcel totaling 1.4 acres (1%).

The site consists of approximately 160 acres of lowland areas, covered for the most part by an average of five feet of fill. A low marine terrace known as Landing Hill reaches an elevation of 66 feet and creates a distinct upland on the south and east edges of the property. Except for the

approximately 11 acre slope comprising most of Gum Grove Park, the upland on the southern edge of the lowland is off-site and is developed with the existing Marina Hill residential area of the City of Seal Beach. About 20 acres of the upland on the east side of the lowlands is on the subject site, forming a mesa, and is currently vacant (Exhibit 1).

In addition, the subject site is bounded on the west by Pacific Coast Highway (State Route One), on the south by the Marina Hill residential area, on the east by Seal Beach Boulevard, on the north by City of Seal Beach Police and Public Works Departments and the Los Alamitos Retarding Basin, and on the northwest by the Haynes Cooling Channel owned by the City of Los Angeles Department of Water and Power (Exhibit 1).

The mesa and Gum Grove Park can be considered to be adjacent to the sea because the lowlands on-site are traversed by a tidal channel which is connected to the San Gabriel River which leads to the Pacific Ocean. Section 30115 of the Coastal Act states, in relevant part:

“Sea” means the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.

Thus, this tidal channel, which is subject to tidal action with a connection to the Pacific Ocean, meets the definition of “sea” under the Coastal Act.

The project previously proposed by the applicant included the following basic elements: subdivision of the 196 acre site into 9 lots, including further subdivision of one of the lots into 70 single-family residential lots in a private community; construction of a public golf course and golf clubhouse; dedication of Gum Grove Park to the City of Seal Beach; 1,600,000 cubic yards of grading (800,000 cubic yards of cut and 800,000 cubic yards of fill); creation of saltwater marsh totaling 39.1 acres (including buffer area) and reservation of 13.2 acres of existing oil production areas for future wetland restoration; construction of interpretive areas and visitor-serving recreation facilities; dedication of public access trails; and extension of Adolfo Lopez Drive. As outlined in more detail below, special conditions imposed by the Commission reduced the subdivision from 9 lots to 5 lots and required that the residential subdivision be open to pedestrian and bicycle traffic, but not open to public vehicular traffic.

Under the proposed amendment, the applicant is changing the proposed project to eliminate the previously proposed golf course, eliminate direct impacts to wetlands and the associated wetland mitigation, and to eliminate the previously proposed development on the property within the project area owned by the California State Lands Commission. The changes to the project are outlined as follows:

1. Subdivision

a. As-Approved Under Coastal Development Permit 5-97-367

There is no existing subdivision on the Hellman Ranch property. The applicant proposed subdivision of the 196 acre site into 9 lots, including further subdivision of one of the lots into 70 single-family residential lots in a private community.

More specifically, the subdivision of the site into 9 lots was proposed under Vesting Tentative Tract Map (VTTM) 15381 as approved by the City of Seal Beach on September 22, 1997. The 9 proposed lots were for: oil production (3 lots comprising a total of 27.5 acres); single family detached residential use in a private community on the mesa adjacent to and west of Seal Beach Boulevard (14.9 acres); Gum Grove Park (11.1 acres), visitor-serving facilities (1.8 acres); golf course and freshwater wetlands (110.1), saltwater marsh wetlands, wetland buffers and public trails (29.6) acres and 1.4 acres of City owned land to extend Adolfo Lopez Drive.

Special Condition 2 of Coastal Development Permit 5-97-367 required changes to VTTM 15381 to show only 5 legal lots, rather than 9 legal lots. The 5 legal lots were to be comprised of 1) the lot currently owned by the California State Lands Commission, 2) the lot currently owned by the City of Seal Beach Redevelopment Agency, 3) proposed Lot 2 which is proposed to be further subdivided into seventy residential lots pursuant to proposed Tentative Tract Map 15402, 4) proposed Lot 3 for the proposed dedication of Gum Grove Park, and 5) a lot consisting of the remainder of the subject site owned by the applicant.

b. Proposed Amendment

The applicant is proposing to fully comply with Special Condition 2 of Coastal Development Permit 5-97-367 in that the final project will consist of only 5 legal lots. However, as a result of this amendment, a change to VTTM 15381 will be required. This change will consist of increasing the size of the lot proposed for residential subdivision from 14.9 acres to 18.4 acres (Exhibit 2).

2. Residential Development

a. As-Approved Under Coastal Development Permit 5-97-367

Subdivision of the 14.9 acre residential site into 70 single-family residential lots (minimum lot size of 5,000 square feet with an average lot size of 6,250 square feet), 7 private open space lots for landscaping (2.08 acres), and a private roadway system was conditionally approved. No physical structures were approved. A subsequent approval is necessary for any structures such as utilities, storm drains, roads, perimeter walls, houses, and any gating. The conditions of the Commission's approval prohibited restrictions on the free movement of pedestrians and bicycles, but did not prohibit restrictions on public vehicular access to the subdivision.

b. Proposed Amendment

The applicant proposes to increase the size of the residential subdivision from 14.9 acres to 18.4 acres. The 18.4 acre site will be subdivided into 70 single-family residential lots, two landscape lots (Lots A and B), three open space lots (Lots C, D, and E), and four private street lots (Streets A through D). The 70 single-family residential lots will occupy 11.92 acres of the 18.4 acre site and have a maximum lot size of 11,059 square feet, a minimum lot size of 6,175 square feet with an average lot size of 7,430 square feet. The two landscape lots will occupy 1.63 acres of the 18.4 acre site. The three open space lots will occupy 0.55 acres of the 18.4 acre site. The street lots will occupy approximately 4.30 acres of the 18.4 acre site (Exhibit 2).

3. Wetland Fill

a. As-Approved Under Coastal Development Permit 5-97-367

A total of approximately twenty-seven (27) acres of wetlands exist on-site (Coastal Resources Management & Chambers Group, 1996). The 110.1 acre public 18-hole golf course would have required the fill of 17.9 acres of existing wetlands. The proposed wetland creation would have also resulted in the fill of 9.1 acres of wetlands.

b. Proposed Amendment

The amendment would eliminate all proposed development resulting in the fill of existing wetlands.

4. Salt Marsh

a. As-Approved Under Coastal Development Permit 5-97-367

A total of 52.3 acres of salt marsh (including buffers) were ultimately to be provided. The applicant was proposing to construct 39.1 acres of salt marsh, including transition buffers, initially (Phase 1). The applicant was also proposing to reserve two existing areas which presently contain mineral production facilities for potential future wetland creation in two future phases. Phase 2 would include a mineral production area adjacent to the Haynes Cooling Channel and would be contiguous with the proposed salt marsh. Phase 3 would consist of the westernmost portion of a 19.28 acre mineral production area towards the center of the site. The applicant proposed to set aside a combined total of 13.2 acres of existing mineral production area for potential future expansion of the Phase 1 salt marsh. If all three phases were completed, the entire salt marsh (including buffers) would be 52.3 acres.

b. Proposed Amendment

Since the applicant is no longer proposing direct impacts upon wetlands, the applicant is eliminating all proposed salt marsh restoration.

5. Grading

a. As-Approved Under Coastal Development Permit 5-97-367

A total of one million, six hundred thousand (1,600,000) cubic yards of grading were proposed. Eight hundred thousand (800,000) cubic yards of grading (cut) would have been excavated to construct the wetlands. The 800,000 cubic yards of excavated material would have been used for fill for the proposed golf course and clubhouse.

b. Proposed Amendment

In the current amendment, the applicant would reduce the amount of grading from 1,600,000 cubic yards to 420,000 cubic yards of grading (210,000 cubic yards of cut and 210,000 cubic yards of fill). This proposed grading will occur in the upland area for the residential development.

6. State Lands Parcel

a. As-Approved Under Coastal Development Permit 5-97-367

The parcel of land adjacent to Pacific Coast Highway currently owned by the California State Lands Commission was contemplated for visitor-serving uses. A City historic building, the Krenwinkle House, was proposed to be moved to the site to be used as a historical museum and/or interpretive center for the adjacent proposed salt marsh. Also contemplated were 10,000 square feet of visitor-serving commercial uses. Sixty-two (62) parking spaces were shown on the conceptual site plan. A simple interpretive facility consisting of a raised platform with displays overlooking the proposed salt marsh was also proposed.

b. Proposed Amendment

All proposed development on the California State Lands Commission parcel has been eliminated. Any development on this site would be the subject of a separate amendment to this coastal development permit or a new coastal development permit.

7. Archaeology

a. As-Approved Under Coastal Development Permit 5-97-367

The applicant is proposing an archaeological investigation to document the existence of cultural resources in the eleven cultural resource sites identified on the property. The eleven State-identified cultural resource sites are CA-ORA-256, CA-ORA-260, CA-ORA-261, CA-ORA-262, CA-ORA-263/852, CA-ORA-264, CA-ORA-850, CA-ORA-851, CA-ORA-1472, CA-ORA-1473 and Area D.

The archaeological investigation consists, in part, of digging 30x30 centimeter square shovel test pits ("STPs") to a maximum depth of 50 centimeters. STPs will be placed at 20 meter intervals on each cultural resource site, resulting in approximately 91 STPs. An additional 19 STPs will be dug on selected sites to supplement the sampling of the 91 STPs.

In addition, the proposed archaeological investigation will consist of digging Test Excavation Units ("TEUs"). The proposed TEUs are 1x1 meter square and will be hand excavated at 10 centimeter intervals. A total of 45 TEUs (between 2 and 8 per site) are expected to be dug. The TEUs will be placed on each site based on the results of both the STPs and a ground penetrating radar survey of each site.

b. Proposed Amendment

No changes are proposed to the previously approved archeological investigation.

8. Golf Course and Clubhouse

a. As-Approved Under Coastal Development Permit 5-97-367

The applicant was proposing a 110.1 acre, 18 hole golf course open to the public. A golf clubhouse, also to be open to the public, was also contemplated.

b. Proposed Amendment

The previously proposed golf course and clubhouse have been eliminated.

9. Parks and Trails

a. As-Approved Under Coastal Development Permit 5-97-367

The applicant was proposing to dedicate the 11.1 acre Gum Grove Park to the City of Seal Beach. The City currently leases the park, an unimproved nature park with a eucalyptus tree grove, from the applicant. The applicant also proposed to dedicate public trails which would extend from the State Lands parcel to the north and south of the Phase 1 salt marsh and end at viewing nodes along the salt marsh.

b. Proposed Amendment

The applicant is not proposing to change the previously proposed Gum Grove Park dedication. In addition, the applicant has announced the intention to comply with the requirements of Special Conditions 4 and 5 as imposed under Coastal Development Permit 5-97-367. In complying with the previously imposed special conditions, Gum Grove Park is to increase in size from 11.1 acres to 14.8 acres. The additional 3.7 acres will be reserved for the parking lot and trail required by the Commission's conditions of approval.

Since the development on the State Lands parcel and the golf course are being eliminated, the applicant is eliminating the previously proposed public trails and viewing nodes extending from the State Lands parcel to the north and south of the previously proposed and now eliminated Phase 1 salt marsh.

10. Acquisition of Southern California Edison Property

a. As-Approved Under Coastal Development Permit 5-97-367

Prior to the September 9, 1998 Commission hearing, the applicant amended the project description to provide for the acquisition of the 8 acre Southern California Edison property which bisected the wetland restoration area. Prior to adding this element to the project description, the applicant would have been required to buy or lease at least 5 acres of this land to accomplish their previously proposed restoration. Therefore, this addition to the project description did not change the quantity of previously proposed wetland restoration. This addition simply clarified that the applicant had a responsibility to acquire or lease lands in order to carry out their proposed project.

b. Proposed Amendment

The applicant has not proposed to eliminate acquisition of the Southern California Edison (SCE) property. Since the wetland restoration is no longer proposed, the SCE property is not needed for this purpose. However, as outlined below, the applicant is proposing to deed restrict the "lowlands" portion of the property. A portion of the area proposed for deed restriction includes the SCE property. Therefore, in order to carry out their proposal, the applicant would still need to provide for some legal interest in the SCE property in order to record the proposed deed restriction.

11. Mineral Production Area - Deed Restriction/Conservation Easement

- a. As-Approved Under Coastal Development Permit 5-97-367

Prior to the September 9, 1998 Commission hearing, the applicant amended the project description to propose to deed restrict and add a conservation easement over 13.2 acres of mineral production area that would allow for future restoration or open space upon cessation of mineral production.

- b. Proposed Amendment

This conservation easement is no longer proposed.

12. Lowlands Deed Restriction

- a. As-Approved Under Coastal Development Permit 5-97-367

The previously proposed golf course resulted in the fill of wetlands and was occurring in a lowland area that had been identified as suitable for wetlands restoration. The Commission acknowledged that the lowlands were potentially restorable to wetlands given sufficient funding and the presence of an entity willing to undertake the restoration. In acknowledgment of this potential, the Commission imposed a special condition (Special Condition 1) which required that the lowlands be available for sale to a public or non-profit entity wishing to perform a wetlands restoration. The deed restriction was to be in place for the life of the golf course use approved under CDP 5-97-367.

- b. Proposed Amendment

The golf course has been eliminated from the proposed project. Therefore, there is no longer any proposed physical development in the lowlands. However, under this amendment, the applicant is proposing a deed restriction to be recorded against the property which would reserve approximately 100 acres of contiguous wetlands, lowlands and uplands on the site (Exhibit 3). The language of the proposed deed restriction is a slightly modified version of Special Condition 1 of Coastal Development Permit 5-97-367 (Appendix A). The language of the proposed deed restriction is as follows:

RESERVATION OF POTENTIAL FOR LOWLANDS ACQUISITION FOR WETLANDS RESTORATION

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and of content acceptable to the Executive Director which shall provide that:

- (a) for a period of twenty-five years the applicant agrees to sell the lowlands area of the property as defined in Attachment 1 to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property;***
- (b) the sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the***

parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and,

(c) for uses restricted to wetlands restoration and education purposes, with reversion rights to the State Coastal Conservancy.

The deed restriction shall remain in effect for twenty-five years and be recorded over the lowlands area of the property and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

13. Infrastructure

a. As-Approved Under Coastal Development Permit 5-97-367

An extension of Adolfo Lopez Drive across land owned by the City of Seal Beach was proposed.

b. Proposed Amendment

The extension of Adolfo Lopez Drive is still proposed in the amendment.

14. Bio-Swale and Water Quality Basin

a. As-Approved Under Coastal Development Permit 5-97-367

There was no bio-swale or water quality basin previously proposed.

b. Proposed Amendment

The applicant is proposing the construction of a bio-swale and riparian corridor plus a water quality detention and filtration basin (Exhibit 4). The purpose of the proposed structures is to capture and treat storm water run-off and non-storm related low flows discharged from the proposed residential subdivision, as well as to treat some off-site storm and non-storm related discharges originating from Seal Beach Boulevard. The proposed system is outlined in the *Storm Water Management & Conceptual Water Quality Control Plan*, dated July 27, 2000, prepared by MDS Consulting and Fuscoe Engineering of Irvine, California.

The proposed system consists of three basic elements: 1) water quality catch basins within the residential subdivision designed to remove trash, litter and grease; 2) a "bio-swale" consisting of vegetated and coarse gravel filter areas where sediment, debris, soap, dirt, fertilizers and pesticides will be filtered; and 3) a 1.94 acre filtration basin/treatment wetland where first flush will be detained and nutrients, bacteria, metals, and organics are removed.

B. Ownership and Existing Legal Parcels

The applicant has confirmed that there is no existing subdivision of the Hellman Ranch property. In addition, this parcel is currently utilized for mineral production, of which Hellman Properties owns the entire operating interest. Further, although Shell Oil (now Signal Hill Petroleum) has a 50% producing interest in APN 980-36-605, Signal Hill Petroleum has no land rights (Exhibit 10).

There are several assessor's tax parcels within the Hellman ownership, including assessor's tax parcels for mineral rights. However, County of Orange assessor's parcels which are utilized for tax purposes are not the same as legal lots for purposes of the Subdivision Map Act.

Under Coastal Development Permit 5-97-367, the applicant was requesting approval of Tentative Tract Map 15381 which subdivided the applicant's lot into several lots. This subdivision of the land was approved by the Commission subject to a special condition which reduced the total number of lots created from 9 lots to 5 lots. Under this permit amendment, the applicant is proposing to expand the size of the residential subdivision from 14.9 acres to 18.4 acres.

C. Previous Commission Actions

1. 1982 Commission Actions

In 1982, Ponderosa Homes applied for coastal development permit application 5-82-221 for the fill of all the existing on-site wetlands and construction of parks and 1,000 homes. Staff recommended that the Commission hold a hearing (May 18, 1982) to discuss the proposed development in light of the wetland and seismic hazards constraints, but the item was ultimately withdrawn.

The California Department of Fish and Game prepared a wetlands determination of the site in conjunction with the Ponderosa project in 1982. In addition, the Coastal Conservancy developed a wetlands enhancement plan for the on-site wetlands. The Conservancy plan evaluated several wetland restoration alternatives that would work around the development proposed under coastal development permit application 5-82-221.

The consolidation of the on-site wetlands into either an on-site tidal salt marsh or an on-site brackish water marsh near the culvert leading to the San Gabriel River was deemed to be technically feasible. Ultimately, however, the Conservancy determined that these alternatives presented significant problems regarding the cost of wetland construction, required changes to the then-proposed Ponderosa Homes project to accommodate the wetlands and long-term maintenance of the culvert linking the wetland with the salt marsh site.

The consolidation of the on-site wetlands into a brackish water marsh near the Los Alamitos Retarding Basin was also considered to be technically feasible. This marsh would have essentially been an extension of the seasonal wetland created when the flood control basin fills with winter storm runoff. This wetland alternative would be dependent on runoff, ground-water pumping and diversion of runoff from the flood control basin for its water supply. Again, however, the Conservancy determined that this alternative would have required changes to the design of the then-proposed Ponderosa Homes project.

The Conservancy thus concluded that off-site restoration would provide the best chance for creation of a long-term viable and regionally significant wetland in the area. This conclusion was also based

in part on minimizing changes to the then-proposed housing development, costs to the developer and revenue loss to the City of Seal Beach. The Conservancy recommended three preferred off-site areas: the Talbert Marsh and Fairview areas of the Santa Ana River and uplands areas next to and within the Seal Beach National Wildlife Refuge (Anaheim Bay wetlands).

The Conservancy presented these wetland alternatives to the Commission as Coastal Conservancy Project #1-82. The Commission approved the Conservancy project in concept with conditions requiring: 1) further study of all alternatives, data from which was to be presented to the Commission along with the selection of a final site and 2) conditions addressing the specific alternatives of the on-site wetlands near the culvert, on-site wetlands near the flood control basin and the Seal Beach wildlife refuge site. None of the Conservancy project wetland restoration alternatives were undertaken because the Ponderosa Homes project was never constructed.

2. 1989-1990 Commission Actions (MOLA)

On November 14, 1989, the Commission denied permit application 5-89-514 by the MOLA Corporation to construct 355 homes with both wetland fill and wetland restoration. The Commission then waived the six month waiting period required by the Regulations to rehear a project which has already been denied by the Commission. On January 12, 1990, the Commission approved Coastal Development Permit 5-89-1087 for construction of 355 homes, 4 acres of wetland fill, 36.8 acres of wetland habitat and 1.3 million cubic yards of cut and 1.4 million cubic yards of fill.

As a condition of approval, the Commission required the proposed wetland restoration area to be expanded by four acres to further mitigate the four acres of fill. The four acre expansion would have: 1) removed planned homes that would have intruded into planned wetland, 2) removed structural development from a highly liquefiable site, 3) further ensured the success of the planned wetland by creating additional wetland and buffer area and 4) allowed the Port of Long Beach to use the site for mitigation credits. The MOLA project was also never undertaken.

3. 1998 Commission Action (Hellman Properties LLC)

On September 9, 1998, the Commission approved Coastal Development Permit 5-97-367 for subdivision of the 196 acre Hellman Ranch into several parcels including a 70-home subdivision, and construction of an 18-hole golf course, construction of 39.1 acres of wetlands, dedication of a public park (Gum Grove Park), visitor serving amenities including trails and reservation of 13.2 acres of existing mineral production area for future wetlands restoration. The Commission imposed 14 special conditions (see Appendix A), which required 1) reservation of the lowlands portion of the property for acquisition for wetlands restoration; 2) a revised Vesting Tentative Tract Map No. 15381 reducing the number of lots from 9 to 5; 3) lease restrictions on the uses proposed on the State Lands Commission parcel; 4) dedication of Gum Grove Park; 5) implementation of a public access program; 6) requirements regarding the review and implementation of the archeological investigation; 7) conformance with water quality requirements; 8) implementation of mitigation measures for geologic hazards; 9) requirements to obtain future coastal development permits for the houses; 10) demonstration of legal interest; 11) requirements for wetlands restoration; 12) requirements for a final revised wetlands restoration program; 13) requirements related to operation of the golf course and implementation of a wetland education program for golfers; and 14) requirements regarding the timing of construction.

The approved project resulted in the fill of wetlands for the construction of a golf course. As noted more fully in the findings adopted by the Commission on February 3, 1999, the Commission's approval was based on Section 30233(a)(3) and 30411(b)(3) of the Coastal Act. This approval was challenged in a lawsuit filed by the League for Coastal Protection, California Earth Corps and the Wetlands Action Network. In response to the lawsuit, a settlement agreement was reached by the parties involved. As noted in the written settlement, "[t]he basic purpose of this Agreement is to resolve litigation by remanding the subject project to the Coastal Commission for consideration of a modified Project as set forth in Exhibit "A" that would: (1) eliminate development within and impacts to wetlands that would have been caused by the golf course portion which would have resulted in the fill of 17.9 acres of existing wetlands; and (2) allow the balance of the project within the upland areas to proceed forward...". In response to this settlement agreement, the applicant filed the subject application for an amendment to Coastal Development Permit 5-97-367 which eliminates the proposed golf course and direct impacts to wetlands.

D. Chapter 3 Coastal Act Policy Analysis

1. Wetlands

Section 30108.2 of the Coastal Act states:

"Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

Section 30121 of the Coastal Act states:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

The subject site contains 27.087 acres of scattered wetlands according to a wetlands assessment of the site (Coastal Resources Management & Chambers Group, 1996). According to the assessment, the existing wetlands are comprised of 15.91 acres of salt marsh vegetation, 2.026 acres of seasonally ponded water, 7.0059 acres of alkaline flat and 3.146 acres of tidal channel. The majority of the wetlands are clustered: 1) around the tidal channel which runs through the middle of the property and delivers site runoff to a culvert which connects to the San Gabriel River or 2) adjacent to the Haynes Cooling Channel at the north edge of the property. The project previously proposed and approved under Coastal Development Permit 5-97-367 resulted in the fill of all of the existing wetlands. The proposed fill resulted from the construction of a golf course and from implementation of a wetlands restoration program. Under this amendment request, the applicant is proposing to eliminate the golf course and associated wetlands impacts and wetlands restoration. There would be no direct impact to wetlands from the revised project as proposed under this amendment.

a. Background on On-site Wetlands

The Commission found previously in its approval of Coastal Development Permit 5-89-1087 that, historically (and as recently as the late 1890's), all of the lowland areas of the subject site were part of the 2,400 acre Alamitos Bay wetland complex at the mouth of the San Gabriel River. Over time, however, man-made alterations reduced the size and quality of the wetlands.

Substantial degradation of the wetlands on the Hellman property began with oil production in the 1920's, which resulted in the fill of wetlands for access roads and production facilities. The wetlands were further altered following the rerouting and channelization of the San Gabriel River from 1930-34. Marsh land receded further as canals and levees were built to control water on the property. The construction from 1961-63 of the adjacent Los Angeles Department of Water and Power cooling channel for the upriver Haynes Power Plant resulted in the deposition of large quantities of fill on the site and additional fill of wetlands.

The City of Seal Beach also allowed fill to be placed on the property during the 1960's and early 1970's, and the Commission's predecessor Coastal Zone Conservation Commission also approved fill activity between 1972-75. Continued oil production and off-road vehicle use on the site currently contributes to the degradation of the wetlands.

b. Importance of Wetlands

One of the main reasons for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their important ecological function. First and foremost, wetlands provide critical habitat, nesting sites and foraging areas for threatened or endangered species. Wetlands also serve as migratory resting spots on the Pacific Flyway, a north-south flight corridor extending from Canada to Mexico used by migratory bird species. In addition, wetlands also serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands serve as natural flood retention areas.

Another critical reason for preserving, expanding and enhancing Southern California's remaining wetlands is because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide up to 91% of coastal wetlands have been lost. As described earlier, the 27 acres of existing on-site wetlands are part of only 150+ acres which remain of the former 2,400 acre Alamitos Bay wetland complex. Therefore, it is critical to maintain and enhance the remaining wetlands to ensure that wetlands exist to carry out the functions described above.

c. Section 30233 Analysis

Section 30233 of the Coastal Act regulates the type of development which may occur in wetlands located in the Coastal Zone. Section 30233 of the Coastal Act states, in relevant part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*

- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (7) Restoration purposes.*
- (8) Nature study, aquaculture, or similar resource dependent activities.*

The previously proposed project would result in development upon wetlands regulated by Section 30233 of the Coastal Act. More specifically, construction of the golf course and wetland restoration elements of the proposed project would have filled or dredged all 27 acres of existing on-site wetlands. Of the total 27 acres of wetland fill or dredge, 17.9 acres of fill would have resulted from construction of the proposed golf course and 9.1 acres of dredging and some fill would have resulted from the proposed salt marsh enhancement. The applicant was proposing to construct a total of 39.1 acres of restored wetlands with reservation of an additional 13.2 acres of land for potential restoration by a willing agency or non-profit entity.

In order to ensure that the proposed wetland restoration program was carried out, the Commission imposed Special Condition 11 (Wetlands Restoration Area/Conservation) which specifically identified the applicant's responsibility to provide the approved quantity of restored wetland habitat. Since the project proposed under this amendment results in no direct impacts upon wetlands, the Commission finds that the previously imposed Special Condition 11 is no longer necessary. Therefore, the Commission removes, in entirety, Special Condition 11.

The Commission also previously imposed Special Condition 12 (Final Wetland Restoration Program) which outlined various requirements for the wetlands restoration program. Since no direct impacts upon wetlands are occurring and no wetlands restoration is being proposed under this amendment, the Commission finds that the previously imposed Special Condition 12 is no longer necessary. Therefore, the Commission removes, in entirety, Special Condition 12.

Since the previously proposed golf course was being constructed adjacent to wetlands which were proposed to be restored and/or created and the golf course would have had adverse impacts upon wetlands, the Commission imposed Special Condition 13 (Golf Course Operations and Golfer Wetland Education Program) which identified the timing of golf course opening, limitations on golf ball retrieval, requirements for golfer education on wetlands, a deed restriction outlining for existing and future owners the requirements for managing the golf course in a manner that was compatible with management of the wetlands for habitat purposes, and design requirements of the golf course. Since the golf course has been eliminated from the project and there is no proposed wetlands restoration, the Commission finds that previously imposed Special Condition 13 is no longer necessary. Therefore, the Commission removes, in entirety, Special Condition 13.

d. Section 30231 Analysis - Wetlands

Section 30231 of the Coastal Act requires wetland biological productivity to be maintained, and where feasible restored. Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project includes grading for a residential subdivision and construction of a bio-swale and detention basin. This development will be occurring in areas that are adjacent to existing wetlands on the project site.

As noted previously, the subject 196 acre site contains approximately 27 acres of wetlands. Most of these wetlands are concentrated around the Haynes Cooling Channel and around a linear tidal channel which roughly bisects the Hellman Ranch. However, there are also scattered wetlands around the property.

The proposed residential subdivision and associated grading will occupy an upland mesa which is bound by Seal Beach Boulevard to the west and the lowlands and oil production area to the east (Exhibit 1, page 3). There are three wetland areas in the lowlands which are near to this development including 1) an irregularly shaped approximately 60 foot long by 40 foot wide salt marsh (herein referred to as "Wetland A") which will be 171 feet away from the limits of the grading and residential subdivision; 2) an irregularly shaped 300 foot long by 150 foot wide salt marsh and alkaline flat (herein referred to as "Wetland B") that is 270 feet away from the limits of the grading and residential subdivision; and 3) the western terminus of the approximately 20 foot wide tidal channel (herein referred to as "Tidal Channel") which is 238 feet from the limits of the grading and residential subdivision. Therefore, the limits of the grading and the residential subdivision will place the development between 171 feet to 270 feet away from the nearest wetlands.

The applicant is also proposing to construct a bio-swale and detention basin along the northeastern side of the proposed residential subdivision. The bio-swale will be placed between the residential subdivision and Wetland A. The proposed bio-swale and detention basin will require grading and the placement of structures. In addition, these structures will be surrounded by a landscaped area that will require the placement of vegetation. At the nearest point, the edge of the proposed bio-swale will be 60 feet from the edge of Wetland A. The edge of the landscaped area would be approximately 10 feet from the edge of Wetland A.

i. Wetland Buffer

Buffer areas are undeveloped lands surrounding wetlands. Buffer areas serve to protect wetlands from the direct effects of nearby disturbance. In addition, buffer areas can provide necessary habitat for organisms that spend only a portion of their life in the wetland such as amphibians, reptiles, birds, and mammals. Buffer areas provide obstructions which help minimize the entry of domestic animals and humans to wetlands. Buffers also provide visual screening between wetland species that are sensitive to human impacts, such as lighting. Buffers can also reduce noise disturbances to wetland species from human development.

The proposed project is providing a 171 foot to 270 foot wide buffer between existing wetlands and the proposed residential development and associated grading. Furthermore, the applicant is proposing to construct a vegetated bio-swale and water quality basin between the residential development and existing wetland.

The applicant has provided a biological analysis analyzing the compatibility of the proposed vegetated bio-swale and water quality basin with the continuance of Wetland A. The biological analysis identifies impacts upon hydrology as the only substantial source of potential impacts upon Wetland A. The biological analysis states that Wetland A is an isolated wetland which exhibits substantial degradation due to a lack of hydrology. Hydrological input is from direct rainfall only. The proposed bio-swale will not change the hydrology of the wetland. Therefore, the biological analysis concludes that the proposed buffer is adequate because the proposed development will not change the hydrology of Wetland A.

The applicant also submitted a biological analysis of the compatibility of the proposed bio-swale and water quality basin with the potential future restoration of wetlands in the lowlands. This biological analysis states that the proposed bio-swale will be planted with native hydrophytes such as southern cattail, California bulrush, Olney's bulrush, Mexican rush and iris-leaved rush. In addition, native riparian species such as mulefat, arroyo willow, narrow-leaf willow and black willow will be planted. The biological analysis states that this vegetation palette will provide habitat for wetland associated avian species such as marsh wren, common yellowthroat, song sparrow, mallards, red-winged blackbird, black phoebe, and a variety of egrets and herons.

However, the biological analysis also states that the final plant palette has not been developed, but will generally consist of the above species. The Commission finds that the use of vegetation native to southern California wetland and riparian environments is necessary to ensure the proposed bio-swale and water quality basin are compatible with the continuance of existing wetlands, as well as potential future wetland restoration. Therefore, the Commission imposes Special Condition 20 which requires that, prior to issuance of the coastal development permit, the applicant submit for review and approval of the Executive Director, a final landscape plan for the proposed bio-swale and water

quality basin. The final landscape plan shall be prepared in consultation with the California Department of Fish and Game. The final plan shall be accompanied by a written endorsement of the landscape plan by the California Department of Fish and Game. The applicant shall construct the bio-swale and water quality basin in accordance with the final plan approved by the Executive Director. Any changes to the plan shall be reported to the Executive Director and the applicant shall obtain an amendment to this coastal development permit for any changes the Executive Director determines requires an amendment.

In addition, if construction equipment and staging is not appropriately managed, adverse impacts upon wetlands on the project site could occur. For instance, soil stockpiles could erode causing sedimentation of wetlands. In addition, if not sited appropriately, construction equipment and activity could cause trampling of the wetlands. Therefore, the Commission imposes Special Condition 25. Special Condition 25 requires that, prior to issuance of the coastal development permit, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to wetlands. The plan shall demonstrate that construction equipment or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition and that construction equipment and activity shall not be placed in any location which would result in impacts to wetlands. The plan shall include, at a minimum, the following components: a site plan that depicts the limits of the staging area(s); construction corridor(s); construction site; the location of construction fencing and temporary job trailers with respect to existing wetlands.

As noted in the project description, under the previously proposed project, the applicant was requesting approval of a subdivision of one 196.6 acre parcel in a configuration that would separate the existing mineral production areas from the previously proposed golf course, wetlands and residential areas. Under the previous approval, the Commission found it necessary to approve a revised land division configuration that maintained in single parcel ownership and usage the land areas proposed for the golf course and wetland restoration, as well as the area currently used for oil production which provides an economically viable use of the property. This means that should any owner of the separate lowlands parcel come forward at some time in the future with a new development proposal in the lowlands portion of the project site now before the Commission, that owner would already have an economically viable use of the property (assuming mineral production is ongoing). Only by keeping the mineral production sites combined with the remainder of the lowlands area as one parcel could the Commission allow the subdivision of the remainder of the project site and ensure that future development proposals will not compel the Commission to allow uses in the lowlands solely to avoid a takings claim. Accordingly, the Commission attached Special Condition 2 for revision of the proposed Tentative Tract Map 15381. Only as conditioned, could the Commission find the proposed project consistent with the Coastal Act. Under this proposed amendment, the applicant is proposing to fully comply with Special Condition 2. The Commission finds that the revised VTTM 15381 depicted in Exhibit 2 conforms with Special Condition 2 and complies with the required merger of the oil production parcel with the lowlands acreage.

ii. Potential Future Restoration

There are few potential wetland mitigation sites left in the Southern California coastal zone available for meaningful, substantial wetland mitigation. There are several entities, such as the Ports of Los Angeles and Long Beach which require wetland mitigation to off-set impacts to wetlands resulting

from improvements to the ports. The need for wetland mitigation sites in the future is inevitable to the extent certain entities need to fill coastal waters to expand and grow coastal dependent facilities.

As noted above, the Hellman Ranch lowlands were historically a part of the 2,400 acre Alamitos Bay wetland complex. These wetlands have been substantially impacted over time due to oil production activities, work upon the San Gabriel River channel and construction of the Haynes Cooling Channel. At least one entity, the Port of Long Beach, has identified the Hellman lowlands as a potential wetland restoration site. In addition, a preliminary plan prepared by the Southern California Wetland Recovery Project (not a public entity) identifies the Hellman lowlands as a potential wetland restoration site.

Section 30231 of the Coastal Act encourages the restoration of the biological productivity of coastal waters, wetlands, estuaries, streams, and lakes. In recognition of this and in compliance with the settlement agreement noted above, the applicant is proposing a twenty-five year deed restriction which will make available for sale approximately 100 acres of lowlands of the Hellman Ranch for wetlands restoration and open space purposes. Specifically, the applicant is proposing that, prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction which shall provide that: (a) for a period of twenty-five years, the applicant agrees to sell the lowlands area of the property as defined in Attachment 1 to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property; (b) the sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and, (c) for uses restricted to wetlands restoration and education purposes, with reversion rights to the State Coastal Conservancy. The applicant proposes that the deed restriction shall remain in effect for twenty-five years and be recorded over the lowlands area of the property and shall run with the land, binding all successors and assigns. Special Condition 16.A. implements the applicants proposed deed restriction and replaces previously imposed Special Condition 1.

The limits of the proposed deed restricted area have been defined in a document titled "Attachment 1" which is found in Exhibit 3, page 1 of these findings. "Attachment 1" shows that the applicant is proposing to deed restrict some areas which are also being proposed for use as a bio-swale and water quality basin. In addition, as noted more fully below, the area proposed for deed restriction includes some upland areas which must be dedicated as open space in perpetuity to mitigate for the loss of raptor foraging habitat. In order to assure that the proposed approximately 100 acre deed restricted area provides the identified acreage for possible restoration/open space, the areas committed to the bio-swale and water quality basin, as well as needed replacement raptor foraging habitat should be deleted from the 100 acres and offset. The Commission therefore imposes Special Condition 16.B. which requires the applicant to submit a revised "Attachment 1", for review and approval of the Executive Director, which maintains the quantity of proposed deed restricted area and which removes those areas and replaces the removal of those areas from the deed restriction with other land within the project site suitable for wetlands restoration, open space and environmental education purposes. As conditioned, the Commission finds the proposed project is consistent with Section 30231 of the Coastal Act.

2. Upland Biological Resources

Section 30240 of the Coastal Act states, in relevant part:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

As part of the proposed development, the applicant is dedicating a 14.8 acre passive recreational nature park, Gum Grove Park, to the City of Seal Beach. As described below, Gum Grove Park contains natural resources which could be degraded if the proposed development is not designed to be compatible with the continuance of the park's resources.

According to the Environmental Impact Report (EIR) for the Hellman Ranch Specific Plan, approximately 137 acres of the Hellman Ranch site can be characterized as ruderal grassland containing mostly non-native early successional herbaceous plants. Existing plant species include slender wild oat, ripgut grass, Italian ryegrass, telegraph weed, bristly ox-tongue, Australian saltbush, five-hooked bassia, alkali weed and white sweet clover. The EIR states that these areas are disced on a regular basis.

There are various bird species which nest and/or forage at the Hellman Ranch and within Gum Grove Park. The EIR and subsequent biological analyses outline species present. The federally and state listed American peregrine falcon (*Falco peregrinus anatum*) may occasionally forage at the site. Loggerhead shrikes (*Lanius ludovicianus*) (a state listed Species of Special Concern) may breed in large shrubs and small trees in ruderal areas of the property and forage on small prey such as insects and lizards which occur on the property. The white-tailed kite (*Elanus leucurus*) (a state listed Fully Protected species) may breed in Gum Grove Park and has been observed in the project area. In addition, other raptors that are state listed Species of Special Concern, such as the northern harrier (*Circus cyaneus*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), osprey (*Pandion haliaetus*), prairie falcon (*Falco mexicanus*), merlin (*Falco columbarius*) and short-eared owl (*Asio flammeus*), occasionally forage on the subject site. Among these raptors, the Cooper's hawk has the potential to breed in Gum Grove Park. Other raptors which have been observed at the project site include the turkey vulture (*Cathartes aura*), American kestrel (*Falco sparverius*), red-tailed hawk (*Buteo jamaicensis*) and red-shouldered hawk (*Buteo lineatus*). Gum Grove Park provides roosting, nesting and breeding areas for these sensitive avian species. In addition, Gum Grove Park provides potential habitat for the monarch butterfly (*Danaus plexippus*).

The proposed project will subdivide and grade 18.4 acres of ruderal upland habitat within Hellman Ranch. This ruderal area presently provides foraging area for raptors present at the subject site and which roost, nest and breed in Gum Grove Park. In letters from the California Department of Fish and Game, dated May 21, 1997 and June 19, 2000, as well as by the U.S. Fish and Wildlife Service, dated March 13, 1998 and June 5, 1998, the loss of open space areas such as ruderal habitat on the subject site would have a significant impact upon raptor species, especially those that are listed as sensitive or endangered. The most recent letter from the California Department of Fish and Game, dated June 19, 2000, recommends that the loss of documented raptor foraging habitat be compensated by committing some remaining upland forage area as mitigation. The CDFG recommends that losses would be adequately offset through the onsite dedication of raptor foraging habitat at a 0.5:1 mitigation-to-impact ratio in an area with long-term conservation potential.

The applicant responded to the recommendations of the California Department of Fish and Game in their letter prepared by their biologist, Glenn Lukos Associates, dated September 11, 2000. The applicant's letter suggests that over 70 acres within the approximately 100 acre lowlands portion of the property contains ruderal habitat identical to that being lost within the 18.4 acre subdivision. The applicant states in their letter, dated September 11, 2000, that 9.2 acres of suitable habitat would be dedicated by means of a conservation easement or similar mechanism and that the identification of such areas would occur in consultation with the California Department of Fish and Game.

The Commission finds that subdivision and grading of 18.4 acres for residential purposes will impact 18.4 acres of raptor foraging habitat. The foraging habitat to be impacted supports sensitive resources associated with Gum Grove Park. The California Department of Fish and Game has recommended that such impacts be mitigated at a 0.5:1 mitigation-to-impact ratio. The Commission finds that in order to assure the continuance of the resources within Gum Grove Park, the applicant must preserve 9.2 acres of suitable raptor foraging habitat. Therefore, the Commission imposes Special Conditions 21 and 22. Special Condition 21 requires that prior to issuance of the coastal development permit, the applicant shall submit for review and approval of the Executive Director, a map, prepared by a biologist in accordance with current professional standards, delineating suitable raptor foraging habitat with long term conservation potential, within the lowlands of the subject property as identified in the letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties, dated September 11, 2000, regarding Response to June 19, 2000, letter from the California Department of Fish and Game Regarding Biological Resources at Hellman Ranch. The area delineated shall not be less than 9.2 contiguous acres of raptor foraging habitat. The delineation shall be prepared in consultation with the California Department of Fish and Game, and the map submitted to the Executive Director shall be accompanied by a written endorsement by the California Department of Fish and Game of the raptor foraging habitat delineation, the site selected and the map. Special Condition 21 also requires that the raptor foraging habitat to be identified shall have the same or better functions and values as the site to be impacted, in accordance with the biological assessment prepared by Glenn Lukos Associates in their letter dated September 11, 2000. The applicant's letter, dated September 11, 2000, states that equivalent raptor foraging habitat is available in the lowlands portion of the property (Exhibit 7, pages 16 and 17). If there are no raptor foraging habitat areas with the same or better functions and values as the site to be impacted in the area previously identified by the applicant as having such, the applicant shall obtain an amendment to this coastal development permit in order to remedy the discrepancy. In addition, Special Condition 21 requires that, prior to issuance of the coastal development permit, the applicant shall submit for review and approval of the Executive Director, a habitat management plan which identifies management measures necessary to, at a minimum, maintain the functions and values of the raptor foraging habitat to be preserved. Such measures shall include appropriate brush management measures for the maintenance of raptor foraging habitat. Measures may include brush clearance and brush mowing; planting of plant species associated with raptor foraging habitat, and exotic and invasive plant species controls for the removal of plant species which upset the functioning of the raptor foraging habitat, including, but not limited to, ice plant, pampas grass, arundo giant cane, and myoporum. Any chemical controls to be used in areas adjacent to wetlands shall be limited to those which are non-toxic to wetland organisms (e.g. Rodeo® Herbicide). The raptor foraging habitat management plan shall be prepared in consultation with the California Department of Fish and Game, and shall be accompanied by a written endorsement of the plan by the California Department of Fish and Game.

Special Condition 22 requires that an open space deed restriction be recorded over the site identified in Special Condition 21 which provides that no development, as defined in Section 30106 of the Coastal Act, shall occur in the raptor foraging habitat except for activities related to raptor foraging habitat maintenance; and the following development, if approved by the Coastal Commission as an amendment to this coastal development permit: activities related to public access, recreation and wetland restoration provided that such development continues to designate a minimum of 9.2 acres of equivalent or better functioning raptor foraging habitat. Special Condition 22 requires that, prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include a copy of the raptor foraging habitat management plan approved by the Executive Director.

In verbal communication with Commission staff, the applicant has suggested that a portion of the 100 acres proposed to be deed restricted for sale for wetland restoration purposes could be used for raptor foraging habitat. The applicant has further suggested that the integration of raptor foraging areas into a wetland restoration plan would be a given component of any wetland restoration plan which would have mixture of open water, tidal flats and upland areas. The Commission disagrees and requires that the 9.2 acres be separate from the proposed 100 acre deed restricted area for the following reasons: 1) requiring the 9.2 acres to be separate from the 100 acre deed restricted area would maintain the offer for such acreage as a bona-fide offer consistent with the settlement agreement; 2) the proposed deed restriction is an offer for sale for 25 years and not a restriction of land –without expiration- as is necessary to mitigate the permanent impacts upon raptor foraging habitat resulting from grading and use of 18.4 acres for residential purposes; 3) the proposed deed restriction does not assure the continued preservation of raptor foraging habitat because it cannot be guaranteed that any entity wishing to purchase the deed restricted area would pursue a wetland restoration in a manner that would be consistent with integrating raptor foraging habitat into the restoration design. Therefore, Special Condition 22 requires a separate restriction without expiration. Furthermore, Special Condition 16.B. requires the applicant to submit a revised “Attachment 1”, for review and approval of the Executive Director, which maintains the quantity of proposed deed restricted area and which removes those areas necessary for the bio-swale, water quality basin and raptor foraging habitat and off-sets the removal of those areas from the deed restriction with other land within the project site suitable for wetlands restoration, open space and environmental education purposes. As conditioned, the Commission finds the proposed project is consistent with Section 30240 of the Coastal Act.

3. Archaeological Resources

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The subject site contains eleven State-identified cultural resources sites. Two of these sites would be left untouched in their current location in Gum Grove Park. However, the proposed grading for the residential subdivision would impact seven of the other designated archaeological sites. In addition, construction of the proposed bio-swale and detention basin would potentially impact two additional sites.

This amendment removes the previously proposed golf course and clubhouse, expands the footprint of the previously proposed residential subdivision and adds the bio-swale and detention basin. The net effect of the changes proposed under this amendment result in the same impacts upon archaeological resources as was previously proposed. Therefore, the scope of work proposed and required under the archeological investigation remains unchanged.

The various archeological sites have been documented during the course of previous archaeological investigations. However, because of differences in the methodologies of the previous investigations, the precise location of each archaeological site is uncertain. Therefore, the applicant is proposing to undertake an archaeological investigation prior to the commencement of any grading for the residential subdivision and grading or other construction for the proposed bio-swale and detention basin to document the precise extent of cultural resources on-site. To ensure the applicant's measures are implemented, Special Condition 19.C. and 19.D. are attached by the Commission. Special Condition 19.C., as now imposed, differs from Special Condition 6.C. as previously imposed by the Commission, in that it eliminates the specific reference to "proposed Lot 2" such that the special condition relates to all of the development as revised and proposed under this amendment. This is necessary because Special Condition 13.A., which previously provided this function, is no longer applicable. Special Condition 13.A. which was previously imposed by the Commission related to the timing of golf course construction. Since the golf course is being eliminated under this amendment, the Commission finds that Special Condition 13.A. is no longer required and is thus eliminated. In addition, several revisions are necessary to Special Condition 6 in order to update and clarify references within the condition. For clarity, Special Condition 19 replaces previously imposed Special Condition 6 in its entirety.

The applicant has prepared an archaeological research design that attempts to reconcile as best as possible the uncertain locations of the identified cultural resources sites using the best information and methods available. The research design will guide the proposed archaeological investigation. The proposed investigation will consist of the excavation of small sections within the areas of the overall development site thought to contain the identified cultural resources sites.

The Commission finds that the following reasonable mitigation measures shall be required. First, to minimize impacts to cultural resources, Special Condition 19.A. requires that the archaeological testing program must be done in accordance with the approved research design. Second, Special Condition 19.A. also requires that the State Office of Historic Preservation ("OHP"), the state Native American Heritage Commission ("NAHC"), and the Native American group/person deemed acceptable by NAHC, shall have the opportunity to review and comment on this research design.

Further, Special Condition 19.B. requires that selection of the archaeologist must be in accordance with accepted guidelines endorsed by the OHP. Also, because of the likelihood of Native American remains being found, Special Condition 19.E. requires that a Native American monitor must monitor the archaeological activities. The Native American monitor shall be selected by the City in accordance with NAHC guidelines in consultation with the Native American group/person deemed acceptable by the NAHC.

To ensure that impacts to cultural resources are minimized, no development (besides the archaeological testing program) shall take place until the archaeological testing has been completed and mitigation measures that minimize impacts to cultural resources have been implemented.

However, since the locations of many of the cultural resources sites are in dispute and not precisely known, it is possible that the archaeological test program may miss cultural resources that are then discovered during development activities. Therefore, the Commission finds that the permit must require that development be temporarily halted in the vicinity of the discovery site until appropriate mitigation measures are developed for resources discovered during the course of post-investigation construction activities. These requirements are contained in subsections C, D and F of Special Condition 19.

In addition, the Commission finds that all mitigation measures must comply with the requirements of the State Office of Historic Preservation and the Native American Heritage Commission. Therefore, Special Condition 19.F. requires that a qualified Native American monitor shall also be present during construction activities to ensure sensitive treatment of Native American cultural resources. Should human remains be found, the Special Condition 19.F. requires that construction shall be temporarily halted in the vicinity of the discovery site and the County Coroner notified to initiate identification proceedings. The Native American group/person shall participate in the identification process. Should the remains be determined to be that of a Native American, the applicant must comply with the provisions of Public Resources Code Section 5097.98. However, the Commission notes that PRC Section 5097.98, which governs procedures when human remains of a Native American are found, exempts these procedures from the requirements of the Coastal Act.

Finally, to ensure that contractors and workers are notified of their obligations related to archeological conditions at the site, Special Condition 19.G. requires that the content of the special condition be incorporated into all documents that will be used by contractors and workers for construction related activity, including bids. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30244 of the Coastal Act.

4. Public Access and Recreation

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

a. Proposed Gum Grove Park Dedication

The applicant proposes to dedicate Gum Grove Park to the City of Seal Beach. The applicant currently leases the land to the City for public park purposes. The park, even though it is leased, is currently signed as being a public park and has been used as such. The Commission finds that prior to issuance of any residential building permits, the applicant must submit written evidence that they have dedicated the park to the City for passive recreation, as proposed, to ensure maximum public recreation opportunities. Therefore, the Commission imposes Special Condition 17. Special

Condition 17 replaces in its entirety previously imposed Special Condition 4. To provide maximum public access and recreation opportunities, the Commission finds that the dedication documents must ensure that: 1) new and upgraded trails will meet the Americans with Disabilities Act requirements and provide access to physically challenged persons, 2) the existing number of parking spaces shall be maintained, 3) signage informing the general public of the park's public nature shall be maintained, 4) changes in park hours which adversely affect public access shall be limited to demonstrated public safety concerns and shall require an amendment to this permit and 5) an area fronting on Seal Beach Boulevard, as proposed, shall be reserved for a public trail and ten public parking spaces which are directly accessible from Seal Beach Boulevard.

Special Condition 17 differs from previously imposed Special Condition 4 by requiring the dedication to occur prior to issuance of residential building permits, rather than prior to issuance of the coastal development permit; and by including a clarification regarding the parks closing time to specify that "dusk" means one hour after sunset.

b. Trails

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

(i) Trail Linking Gum Grove Park to Seal Beach Boulevard & Public Parking

The applicant is proposing Tentative Tract Map No. 15402 which would subdivide the proposed 18.4 acre lot of Tentative Tract Map No. 15381 into lots for seventy (70) single-family residences, common areas and private streets. The proposed subdivision is located at the eastern end of the subject site adjacent to Seal Beach Boulevard, a major thoroughfare which runs to the beach to the south and the freeway to the north. Assuming there are at least three people occupying each of these 70 proposed homes, the proposed development will result in an increased burden of at least 210 people on existing public recreation facilities.

The project previously proposed under Coastal Development Permit 5-97-367 included gating the residential community. Under this proposed amendment, as noted in the project description, the applicant has announced their intention to comply with previously imposed Special Condition 5, which allows the applicant to restrict public vehicular access to the residential subdivision, but which prohibits the applicant from restricting public pedestrian and bicycle traffic from entering the community. The Commission previously found that, in this case, there is no need to require that the proposed subdivision's streets be open for public vehicular access over the private streets so long as public parking directly accessible from Seal Beach Boulevard is provided. However, the Commission did not sanction exclusivity in the coastal zone and found that gates which preclude public pedestrian and bicycle access cannot be found consistent with the public access and recreation policies of the Coastal Act. Therefore, any method of prohibiting public vehicular access to the subdivision (e.g. gates) must be designed such that public pedestrian and bicycle access to the subdivision is not impeded. The Commission finds that these requirements must be maintained as part of the development proposed in this amendment. However, several modifications to the references in Special Condition 5 are necessary to update the condition. Therefore, the Commission replaces, in its entirety, Special Condition 5 with Special Condition 18.

In addition, the project previously proposed under Coastal Development Permit 5-97-367 included the creation of Lot 3 of proposed Tentative Tract Map No. 15381 for the purposes of conveying Gum Grove Park to the City of Seal Beach. The previously proposed Lot 3 was configured to include a linear strip that extended from the area generally used as Gum Grove Park eastward to Seal Beach Boulevard. The Commission previously found that this linear strip of land would provide a second public access entrance to Gum Grove Park. Currently, the only entrance to Gum Grove Park is at the far western end of Gum Grove Park. The current park entrance is tucked away in the existing residential subdivision adjacent to the south side of the subject site. No signs on major public thoroughfares such as Pacific Coast Highway or Seal Beach Boulevard currently point the way to the existing park entrance. This requires people driving or biking down Seal Beach Boulevard to find their way through the existing residential neighborhood clear to the other side of the park. Since Gum Grove Park is a long, linear park, a second public entrance at its eastern end would promote public access to the park. An eastern entrance from Seal Beach Boulevard would also link the park with the public bike lane on the west side of Seal Beach Boulevard, thus encouraging non-automobile trips to the park. Also, a park entrance right on Seal Beach Boulevard, a well-traveled arterial which leads both to the beach to the south and freeway to the north, would be much more visible to the public than the current entrance and thus promote public access.

Therefore, the Commission previously found that the linear strip of land within the area proposed for dedication by the applicant shall be reserved for a public access trail and public parking lot directly accessible from Seal Beach Boulevard. Further, the Commission required that the applicant shall construct the trail and ten public parking spaces within the reserved area. Since parking is prohibited on both sides of Seal Beach Boulevard for at least a half mile in either direction of the subject site, the Commission found that there is a need for public parking to make the trail accessible by the public. The two go hand-in-hand. The Commission found that the construction of a public trail and ten parking spaces would require a minimal amount of improvement over the mostly flat, relatively narrow strip of land in question.

Thus, the Commission attached Special Condition 4 to Coastal Development Permit 5-97-367 which required that the park dedication documents for the proposed dedication of Gum Grove Park provide for the provision of a public trail connecting to Seal Beach Boulevard and the construction of public parking. In order to update several references within the condition to reflect current conditions, the Commission replaces Special Condition 4, in its entirety, with Special Condition 17.

Since the linear strip of land in question was relatively narrow, and it was uncertain that 10 parking spaces and a trail could be provided, the Commission previously required under Special Condition 5 that if the ten public parking spaces could not be provided entirely on the dedicated Gum Grove Park area, then the spaces which could not be built on Lot 3 shall be built on the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3. The Commission found that even if all ten parking spaces were to be built on the area covered by Vesting Tentative Tract Map No. 15402, they would only occupy a small portion of the residential site. Assuming a parking space dimension of 9'x20', ten spaces at this size would occupy only about 0.04 acres, which is a fraction of the area covered under Vesting Tentative Tract Map No. 15402. Further, the parking spaces would be at the edge of the residential site so as to be adjacent to the proposed Gum Grove Park dedication area. Thus, the small area and location at the edge of the subdivision would be the least intrusive method of providing needed public parking for trail access which cannot be provided on the dedicated Gum Grove Park land itself.

As noted above, the applicant has indicated the intention to comply with previously imposed Special Conditions 4 and 5 (now revised and replaced by Special Conditions 17 and 18). In filing the subject amendment application, the applicant has submitted a revised Tentative Tract 15381 and revised Tentative Tract 15402. These revised tract maps increase the size of the previous linear strip of land and allow more space for the construction of the required parking spaces and trails. The applicant also submitted a conceptual parking and trail plan which preliminarily indicates that there is adequate space to construct the required parking and trail in the expanded area shown on revised Tentative Tract Maps 15381 and 15402. However, previously imposed Special Conditions 4 and 5 included provisions to assure that the subdivision is designed with enough area to construct the required parking and trails. In addition, previously imposed Special Conditions 4 and 5 included provisions to assure that the public parking spaces were directly accessible from Seal Beach Boulevard and that appropriate signage was provided. The Commission continues to require that such assurances are in place as they relate to the revised proposed development. However, as noted above, Special Conditions 4 and 5 must be updated to reflect changes made as a result of this amendment. Therefore, Special Conditions 4 and 5 are replaced in their entirety by Special Conditions 17 and 18, respectively.

Also, under this amendment, the Commission re-affirms the need for the proposed development to provide public parking and a trail from Seal Beach Boulevard to Gum Grove Park. These facilities are an integral feature of the public access and recreational component of the proposed project by which the Commission finds that the proposed project is consistent with the public access and recreation policies of the Coastal Act.

(ii) Previously Proposed Trails around Salt Marsh

Under the previously proposed project, the applicant was installing trails around the proposed salt marsh. The Commission previously imposed Special Condition 5.E. in order to assure the public nature and accessibility of the trails and to minimize the impacts of the trails on wetlands. Since there is no longer a proposed salt marsh restoration under this amendment, trails around the salt marsh are no longer proposed. Therefore, the Commission finds that Special Condition 5.E. is no longer necessary and removes Special Condition 5.E. by not carrying it forward to Special Condition 18, which has replaced Special Condition 5 in its entirety.

c. Previously Proposed Golf Course

Under the previous project, a golf course and clubhouse were proposed. In order to assure the golf course and clubhouse remained public and to assure that adequate parking was required to support the use, the Commission imposed Special Condition 13. Since neither the golf course or clubhouse are proposed under this amendment, Special Condition 13 is no longer required. Therefore, the Commission removes Special Condition 13. Therefore, as conditioned, the Commission finds that the proposed project is consistent with the public access and recreation policies of the Coastal Act.

5. Previously Proposed Visitor Serving Uses

The applicant was previously proposing visitor-serving uses and an interpretive center at the parcel of land owned by the California State Lands Commission ("CSLC"). The Commission previously imposed requirements related to this development in Special Condition 3. However, under this

amendment, the applicant is no longer proposing development on the CSLC property. Therefore, the Commission finds that Special Condition 3 is no longer necessary and removes Special Condition 3.

6. Hazards

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

a. Seismic / Geologic Hazards

The Seal Beach splay of the Newport-Inglewood fault (a major earthquake fault in Southern California) transects the site in a northwesterly direction. The Alquist-Priolo Act requires development for human habitation to be setback 50 feet from a fault zone. The fault across the subject site is 20 feet wide. Therefore, structures for human habitation cannot be built within a 120 foot wide strip of land running over the fault (20 feet for the fault plus 50 feet on either side of the fault).

No homes or other structures for human habitation are proposed on the fault. However, to further minimize hazards from seismic activity, the Commission previously imposed Special Condition 8 which required incorporation of the City's geological hazards mitigation measures outlined in the EIR for the Hellman Ranch Specific Plan. The Commission finds that this condition shall remain in effect. These measures include requirements such as proper recompaction of fill material and construction of buildings in accordance with the latest seismic standards. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 8, remain in effect.

b. Flood Hazards

The subject site is located near a major river and a flood control basin. As with the previously proposed project, most of the structural development will be located on an upland mesa well above flood level. However, in order to minimize flood hazards, the Commission previously imposed Special Condition 8 which incorporated the City's hydrology mitigation measures outlined in the City-approved EIR for the Hellman Ranch Specific Plan. The Commission finds that Special Condition 8 shall remain in effect. These measures include conformance to floodplain elevation standards and compliance with requirements for the adjacent flood control basin. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 8, remain in effect. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act.

7. Water Quality

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The hydrology and drainage patterns of Hellman Ranch are broken into two drainages which drain on-site and off-site areas. The first drainage area is approximately 76 acres and includes a portion of Seal Beach Boulevard, the upland area of the property (including all of the proposed residential subdivision), and existing oil production areas on the property (herein referred to as Drainage Area A). The second drainage area is an approximately 152 acre area which drains some of the existing residential development south of the project site, Gum Grove Park, the lowlands on the property (where the existing wetlands are located) as well as some existing oil production areas (herein referred to as Drainage Area B). Drainage Area A presently drains into the adjacent Los Alamitos Retarding Basin, which subsequently discharges to the San Gabriel River. Drainage Area B drains directly to the San Gabriel River. Except for a 3 acre region adjacent to Seal Beach Boulevard, the proposed development will leave these drainage patterns largely unchanged.

The proposed project will result in the subdivision and grading of 18.4 acres within Drainage Area A for residential purposes. In addition, the amended project includes the extension of Adolfo Lopez Drive. The implementation of the project will result in two phases where potential impacts upon water quality would occur: 1) the construction phase; and 2) the post-construction phase including the commitment of an 18.4 acre area for residential purposes. Construction phase impacts include erosion and sedimentation of coastal waters during grading. Post-construction phase impacts relate to the use of the proposed project, a residential subdivision. Run-off from residential developments is commonly polluted with petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and

pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

In order to assure that the previously proposed project conformed with Section 30231 of the Coastal Act, the Commission previously imposed Special Condition 7. Special Condition 7 required that, prior to the issuance of the coastal development permit, the applicant submit, for the review and approval of the Executive Director, a National Pollutant Discharge Elimination System permit ("NPDES"), Storm Water Pollution Prevention Plan, and Structural and Non-structural Best Management Practices for the proposed project, in compliance with the standards and requirements of the California Regional Water Quality Control Board. Special Condition 7 requires the applicant to implement and comply with the water quality measures approved by the Executive Director. In addition, Special Condition 7 requires that runoff from the site be directed to the Los Alamitos Retarding Basin (LARB) to the maximum extent feasible. In addition, Special Condition 7 requires the permittee to comply with mitigation measures WQ-5 through WQ-10 inclusive as approved by City of Seal Beach City Council Resolution 4562. Water Quality (WQ) measures 5 through 10 are contained in the City's certification of the Hellman Ranch Specific Plan and are as follows:

- WQ-5 Prior to moving construction equipment on site, the project developer shall provide evidence to the City Engineer that a national Pollution Discharge Elimination System (NPDES) permit has been obtained from the State Water Resources Control Board (SWRCB). Once obtained, the NPDES permit shall be retained on the construction site throughout the construction period, and a copy shall be filed with the City Engineer.*
- WQ-6 During construction, the City Engineer shall ensure that all the terms and conditions outlined in the National Pollution Discharge Elimination System (NPDES) permits, including the implementation of Best Management Practices (BMP's) are complied with.*
- WQ-7 Prior to issuance of grading permits, Project developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for the proposed project. This plan shall be submitted to the City Engineer for review and comment prior to implementing any SWPPP provisions or starting any construction activity. A copy of the SWPPP shall be held by the construction contractor(s) on the construction site throughout the development of the Hellman Ranch Specific Plan. The City Engineer will monitor and enforce the provision of the SWPPP.*
- WQ-8 During operation of the proposed project, the Project Owner/Operator shall ensure that all pest control, herbicide, insecticide and other similar substances used as part*

of maintenance of project features are handled, stored, applied and disposed of by those doing facility maintenance in a manner consistent with all applicable federal, state and local regulation. The City Engineer shall monitor and enforce this provision. Responsible agencies shall be indicated in the Golf Course Management Plan.

WQ-9 Prior to issuance of grading permits, the project developer shall provide evidence to the Director of Development Services that a water quality management plan (WQMP) has been prepared for the project in a manner consistent with the Orange County Drainage Area Management Plan. The WQMP shall contain provisions and Best Management Practices (BMP's) for both construction and operating/municipal conditions. The WQMP shall also remain flexible to modification to provide appropriate safeguards for the wetlands and Los Alamitos Retarding Basin.

WQ-10 Prior to issuance of the grading permits, the City Engineer shall verify that structural BMP's have been permanently incorporated into project plans by the Applicant. Such BMP's shall ensure that pollutants from project-related storm water entering the LARB and the San Gabriel River are mitigated consistent with applicable state and local standards.

This proposed amendment to Coastal Development Permit 5-97-367 changes the scope of work previously contemplated. Therefore, the Commission finds it necessary to define how Special Condition 7 relates to the development as now proposed and the products which are expected as compliance with the special condition. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 7, remain in effect.

Special Condition 7 references several documents including the National Pollutant Discharge Elimination System permit ("NPDES"), Storm Water Pollution Prevention Plan; Structural and Non-structural Best Management Practices, the Orange County Drainage Area Management Plan, and a Water Quality Management Plan. These references refer to permits and documents required under the regulations of other governing agencies with regard to stormwater runoff associated with new development during and after construction. Relevant permits implementing these requirements include the State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000002, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Runoff Associated with Construction Activity; and the County of Orange Municipal NPDES Stormwater Permit No. CAS618030.

The proposed project involves construction activity including clearing and grading more than 5 acres of total land area. In cases where more than 5 acres of such construction activity is involved for residential use, the applicant is required to comply with the State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000002, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Runoff Associated with Construction Activity. This permit requires the applicant to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) which addresses construction-related impacts upon storm water quality associated with the specific development occurring at the particular site in question. The SWPPP identifies pollutant sources and outlines the measures (i.e. Best Management Practices) to be taken to avoid impacts from those

pollutant sources. By submitting a SWPPP which is in conformance with the requirements of the NPDES General Permit No. CAS000002 for review and approval of the Executive Director of the Coastal Commission, the applicant will demonstrate the specific measures which will be implemented to avoid adverse impacts upon water quality during the construction phase of the project. Such measures would include, but not be limited to, use of hay bales, sand bags, silt fences and temporary detention basins/settlement ponds to prevent the discharge of sediment from the construction site, use of temporary erosion control landscaping to secure graded and disturbed areas, prior to the rainy season, which remain exposed after interruptions in construction or which remain exposed after grading is completed and before fine grading and construction of infrastructure and homes.

The subject site is also governed by the County of Orange Municipal NPDES Stormwater Permit No. CAS618030 which was issued by the California Regional Water Quality Control Board – Santa Ana Region to the County of Orange and co-permittees including the City of Seal Beach. The municipal stormwater permit requires the County and co-permittees including the City of Seal Beach to prepare and implement a drainage area management plan which addresses those measures that will be implemented to mitigate polluted run-off. These measures include requirements for the use of post-construction phase structural and non-structural Best Management Practices (BMPs) to avoid and minimize the impacts of polluted run-off upon surface waters.

The Orange County Drainage Area Management Plan (OC DAMP), submitted to the Regional Boards for compliance with the municipal NPDES permit is the implementing program for the NPDES permit. The guidelines for the use of structural and non-structural BMPs outlined in the OC DAMP were developed based upon the principle criterion identified in the NPDES permit, that being the term Maximum Extent Practicable or “MEP.” The NPDES permit defines “MEP” as follows:

“MEP” means to the maximum extent practicable, taking into account equitable considerations of synergistic, additive, and competing factors, including but not limited to, gravity of the problem, fiscal feasibility, public health risks, societal concern, and social benefits.”

The OC DAMP includes a section focused on New Development Control (Section 7.0), which requires new development (such as the proposed project) to incorporate non-structural, routine structural, and special structural BMPs “to minimize the amount of pollution entering the drainage system.”

In order to identify for the Commission the non-structural, routine structural and special structural BMPs the applicant is proposing to use to address post-construction water quality impacts from the proposed development, the applicant has submitted a Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared by MDS Consulting of Irvine, California, dated January 2000 and a Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000. The WQMP outlines, in general, the non-structural and structural BMPs which are proposed to address water quality impacts associated with the residential development. Meanwhile, SWM & WQCP describes more fully the specific measures to be implemented including the bio-swale/riparian corridor and water quality basin which is being proposed as part of this amendment.

Briefly, the WQMP describes several BMPs designed to mitigate water quality impacts from the proposed development. Non-Structural BMPs include: 1) education for property owners, tenants,

and occupants; 2) activity restrictions, to be a part of the Conditions, Covenants and Restrictions (CC & R's) for the development, including i) no car engine cleaning onsite, ii) car washing only allowed using bucket and sponge method, iii) a prohibition of car maintenance on site; iv) limitations on the use of chemicals and fertilizers; 3) in the CC & R's, identification of the homeowners association as the entity responsible for inspection and maintenance of structural and non-structural BMPs; 4) common area litter control; 5) inspection and maintenance of common area catch basins by October 15th of each year; and 6) street sweeping. Structural BMPs include: 1) filtration of surface runoff through landscaped areas; 2) efficient irrigation of common areas; 3) use of energy dissipaters; 4) catch basin stenciling; and 5) installation of inlet trash racks.

Expanding upon the WQMP, the applicant submitted the SWM & WQCP which outlines in more detail the non-structural and structural BMPs which will be implemented to mitigate the impacts of polluted storm run-off related to the proposed development. The structural BMPs outlined in the SWM & WQCP are categorized into three zones. Zone One (1) consists of trash racks and fossil filters installed into catch basins within the proposed development. The measures in Zone 1 will primarily intercept trash, litter, grease and other hydrocarbons. Zone Two (2) consists of a bio-swale designed to control fine particle sediments, debris, soap, dirt, herbicides, pesticides, and fertilizers. The bio-swale will consist of an infiltration swale with a wetland bottom and vegetation which will impound surface runoff and filter it as it passes through the basin floor. Zone Three (3) will consist of a filtration basin designed to control nutrients, microbial contaminants and toxic materials. This basin is designed to accommodate the first flush from a drainage area of 30.6 acres (i.e. the 18.4 acre residential subdivision and the 12.2 acres of off-site drainage area).

As stated on Page 5 of the SWM & WQCP, the goal of the proposed system is to “manage developed storm water flows (runoff) and to “minimize pollutants from urban runoff.” Page 16 of the SWM & WQCP further states that the system will function such that low-flows will be shunted to Zones 2 and 3 of the water quality management system, while high flows will bypass the Zones 2 and 3 and discharge directly to the LARB. In a letter to Commission staff, dated September 6, 2000, prepared by Fuscoe Engineering, the applicant further clarifies that the system is designed to capture the first flush storm event. The system has the capacity to hold two first flush events. Anticipated residence time of the water entering the system is seven days. During this period, the water is expected to infiltrate or evaporate. The system is not designed to discharge the water entering it directly to any other body of water or storm drain system. Meanwhile, the system is also designed with an overflow which will discharge to the Los Alamitos Retarding Basin in the event that system capacity is exceeded¹.

Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the

¹Exhibit 4-2 of the SWM & WQCP indicates that overflow from the proposed water quality remediation system will be discharged directly to the Hellman Ranch lowlands. The applicant has since indicated that this was an error in the drawing, and that Figure 8 of the SWM & WQCP supercedes this exhibit with respect to the management of overflows. Rather than discharging overflow to the Hellman Ranch lowlands, Exhibit 8 shows a ‘diffusion corridor’ which will connect the system to the Los Alamitos Retarding Basin and that overflows will be directed through the diffusion corridor to the retarding basin rather than into the Hellman Ranch lowlands.

small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost².

Commission staff requested that the applicant analyze whether the proposed system, which is designed to capture and mitigate first flush and low flows, would be capable of mitigating (infiltrating or treating) storm water runoff from each runoff event up to and including the 85th percentile 24-hour runoff event. In a letter dated September 22, 2000, Fuscoe Engineering responded that conceptually, the system would provide this capacity; however, final detailed calculations would be necessary to determine whether any adjustments to capacity would be required. However, Fuscoe Engineering indicated that, in their experience, the calculations for first flush, which were made to design the system as now proposed, are conservative, and that it is very likely the system provides the capacity to mitigate the 85th percentile 24-hour runoff event without any adjustments. The calculations are conservative because they assume 100% impervious surface within the residential development and off-site areas. Under final build-out, the amount of impervious surface would be less than 100%. Furthermore, the currently proposed system has the capacity to capture two first flush events, rather than a single event. These two features of the system, conservative estimation of capacity based on discharges from 100% impervious surface, and the capacity to hold two such events, contribute to the applicant's statement that the currently proposed system will be capable of mitigating storm water from the 85th percentile 24-hour runoff event. In addition, the applicant has indicated that if final calculations show that the system must be enlarged to mitigate the 85th percentile 24-hour event, there is additional land where this can be accommodated.

The Commission finds that sizing the proposed post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. The applicant has indicated the proposed water quality management plan will meet the requirements specified in Special Condition 7. Since the final calculations for the proposed water quality management system have not yet been performed, and to assure that the proposed measures are consistent with Section 30231 of the Coastal Act, the Commission wishes to clarify for the applicant the requirements. Therefore, the Commission imposes Special Condition 23.

Special Condition 23 requires the applicant to submit a final SWM & WQCP for review and approval by the Executive Director of the Coastal Commission which is consistent with the Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared by MDS Consulting of Irvine, California, dated January 2000 and Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, submitted by the applicant, and which includes the following specifications. Special Condition 23 requires the proposed post-construction treatment BMPs to be sized based on design criteria specified in the condition, and finds this will ensure the proposed overall SWM & WQCP will serve to reduce pollutants in stormwater to the maximum extent practicable, as required in Special Condition 7. Since the proposed water quality management system is necessary to mitigate the water quality impacts associated with use of the development, Special Condition 23 requires that the structural elements of the SWM & WQCP, approved by the Executive Director, be implemented prior to or concurrent with construction of infrastructure for the residential subdivision (i.e. streets, utilities, etc.).

²[ASCE/WEF, 1998. Urban Runoff Quality Management. WEF Manual of Practice No. 23, ASCE Manual and Report on Engineering Practice No. 87.]

Special Condition 23 also specifies that all structural and non-structural BMPs shall be maintained in a functional capacity throughout the life of the approved development. Special Condition 23 specifies that any changes to the structures outlined in the SWM & WQCP necessary to accommodate the requirements outlined in Special Condition 23, shall require an amendment to this coastal development permit. Finally, in order to assure that the applicant and all successors-in-interest are aware of the requirements of Special Condition 23, the condition requires, prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction reflecting the requirements outlined in Special Condition 23.

In addition, since final site plans, grading plans, structural plans and landscape plans have not been submitted related to the proposed bio-swale and water quality basin, the Commission imposes Special Condition 20. Special Condition 20 requires the applicant to submit final site plans, grading plans, structural plans and landscape plans for the proposed bio-swale and water quality basin which conform with the final SWM & WQCP required pursuant to Special Condition 23 above. In addition, plans shall conform with the specifications regarding hydrology and landscaping for the system outlined in the letters dated June 28, 2000, and September 11, 2000, prepared by Glenn Lukos Associates of Lake Forest, California.

In addition, the applicant's SWM & WQCP indicates that land is necessary outside the area of the residential subdivision to construct the water quality measures necessary to assure the development is consistent with Section 30231 of the Coastal Act. Therefore, the Commission imposes Special Condition 24 which requires the applicant, prior to issuance of the coastal development permit amendment, to execute and record a deed restriction, in a form and content acceptable to the Executive Director, over the area of land depicted in Figure 8 of the SWM & WQCP (including the landscaped area surrounding the water quality basin and bio-swale) as generally depicted in Exhibit 4, page 1. The area shall be restricted for uses related to water quality management purposes. As outlined elsewhere in these findings, the deed restriction shall not preclude use of the area for wetland restoration and open space purposes so long as any such project maintains the water quality improvement function performed by the system proposed under the SWM & WQCP. In addition, this deed restriction shall not preclude construction and maintenance of the access road depicted Figure 8 of the SWM & WQCP, nor shall it preclude the construction and maintenance of the utilities and oil transmission lines depicted on Vesting Tentative Tracts 15381 and 15402, as approved by the Executive Director, provided the water quality improvement functions of the system described in the SWM & WQCP, as revised and approved by the Executive Director pursuant to Special Condition 23, is, at a minimum, maintained. Finally, the deed restriction shall not preclude development associated with the archaeological investigation required pursuant to Special Condition 19. As conditioned, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

8. New Development

Section 30250 of the Coastal Act states, in relevant part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The subject site is approximately 196.6 acres in size and is essentially undeveloped except for about 28.2 acres of oil production facilities and small structures housing the property owner's offices. Thus, the subject site is one of a few remaining, non-public vacant pieces of land along the Southern California coast. The proposed development involves subdivision for 70 homes and park uses. The proposed development is less dense and intense than previous development proposals for the subject site. Further, the subject site is completely surrounded by urban development. Infrastructure to serve the proposed development exists in the area. Thus, the proposed development is located within an existing developed area able to accommodate it. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30250 of the Coastal Act.

9. Other Conditions

The applicant has proposed further subdivision of the mesa for 70 single family residential lots. However, plans for development of the lots, including the footprint, height, and design of the homes, grading and landscaping, common walls, and infrastructure and utilities were not submitted. Therefore, the Commission finds that a subsequent Commission approval is required for the homes to allow the Commission to review the proposed homes for consistency with Chapter 3. Therefore, the Commission previously imposed Special Condition 9. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 9, remain in effect.

Also, the Commission has reviewed the materials submitted by the applicant for conformance with Chapter 3 of the Coastal Act. The project has been conditioned accordingly. Any changes to the proposed project must be reviewed for consistency with the Chapter 3 policies of the Coastal Act. Therefore, the Commission imposes Special Condition 26 which requires that all development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth herein. Any deviation from the approved plans must be reviewed and approved by the Executive Director and may require Commission approval.

In addition, the proposed project involves the placement of deed restrictions and structures on land which they must demonstrate a legal interest to do so. For instance, the applicant is proposing to deed restrict land presently owned by Southern California Edison. In addition, The applicant is proposing storm water facility connections to the Los Alamitos Retarding Basin which is owned by the Orange County Flood Control District. Therefore, the Commission previously imposed Special Condition 10 which requires that, prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, written documentation demonstrating that it has the legal ability to carry out the proposed development and all conditions of approval of this permit. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 10, remain in effect.

D. Development Agreement

The applicant has entered into a development agreement with the City of Seal Beach for the proposed development. California Government Code Section 65869 stipulates that development agreements shall not be applicable to development in the coastal zone unless, prior to certification of the local coastal program ("LCP") for the jurisdiction in which the development is located, the Commission, through formal action, approves the development agreement.

Since the LCP for the City of Seal Beach has not been certified, the Commission will have to approve the development agreement before the agreement can be effective. The development agreement will be acted on by the Commission as a separate hearing item.

E. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the permitted development will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter Three policies of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified local coastal program consistent with the Chapter Three policies of the Coastal Act.

F. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed development is located in an urban area. All infrastructure necessary to serve the site exist in the area. The proposed project has been conditioned in order to be found consistent with the wetlands, public access, ESHA, natural hazards, water quality and archaeology policies of Chapter Three of the Coastal Act. As amended, the mitigation measures which apply to the project include 1) implementation of the proposed lowlands deed restriction to make the area available for wetlands restoration and submission of a revised map showing changes necessary to the delimits of the lowlands deed restricted area in order that there is no reduction in potentially restorable wetland area; 2) conformance with the requirement for a revised Tentative Tract Map 15381 limiting the site to 5 parcels in order to avoid impacts on wetlands; 3) implementation of the proposed Gum Grove Park dedication to assure public access; 4) implementation of a public access program; 5) conformance archeological investigation requirements to assure appropriate mitigation for impacts upon archeological resources; 6) conformance with water quality requirements to avoid the degradation of coastal waters; 7) conformance with hazard mitigation requirements to avoid geologic and flood hazards; 8) notification that future residential development requires a permit; 9) conformance with evidence of legal interest; 10) submission of final plans to assure that the project conforms with this approval; 11) identification of raptor foraging habitat suitable for long term

conservation and management and recordation of an open space deed restriction over 9.2 acres for raptor foraging habitat; 12) conformance with water quality standards related to the proposed bio-swale, riparian corridor and water quality basin; 13) the reservation of land outside the proposed residential subdivision for water quality purposes; 14) submission of a construction staging plan demonstrating that no impacts to wetlands will occur; and 15) strict conformance with approved plans. The required mitigation measures will minimize all significant adverse effects which the activity will have on the environment.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of CEQA.

APPENDIX A: Previously Imposed Special Conditions of Approval imposed by the Commission on September 9, 1998

1. RESERVATION OF POTENTIAL FOR LOWLANDS ACQUISITION FOR WETLANDS RESTORATION

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and of content acceptable to the Executive Director which shall provide that:

- (a) the applicant agrees to sell the lowlands area of the property to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property;
- (b) the sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and,
- (c) for uses restricted to wetlands restoration and education purposes, with reversion rights to the State Coastal Conservancy.

The deed restriction shall be recorded over the lowlands area of the property and shall run with the land, binding all successors and assigns for the life of the golf course use approved in the coastal development permit, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. REVISED VESTING TENTATIVE TRACT MAP NO. 15381

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two copies of a revised vesting tentative map for Tract No. 15381. The revised map shall show only five legal lots as generally depicted in Exhibit 1, page 4; namely, 1) the lot currently owned by the California State Lands Commission, 2) the lot currently owned by the City of Seal Beach Redevelopment Agency, 3) proposed Lot 2 which is proposed to be further subdivided into seventy residential lots pursuant to proposed Tentative Tract Map 15402, 4) proposed Lot 3 for the proposed dedication of Gum Grove Park, which shall be in substantial conformance with the configuration shown on the map submitted with the permit application and maintain the proposed minimum 25 wide frontage along Seal Beach Boulevard, and 5) a lot consisting of the remainder of the subject site owned by the applicant. The applicant shall record the revised map approved by the Executive Director.

3. STATE LANDS PARCEL

A. Lease Restriction. Prior to the issuance of the coastal development permit, the applicant shall execute and record a lease restriction, subject to the review and approval of the Executive Director, over the property commonly known as the California State Lands Commission parcel, situated northeasterly of Pacific Coast Highway at its intersection with First Street in the City of Seal Beach, which provides that:

- (1) This coastal development permit approves only the construction of: a) an interpretive center consisting of a raised, handicap-accessible platform with information panels containing photographs, maps, exhibits, etc., overlooking the proposed salt marsh, b) the placement only of the Krenwinkle House on the site (no uses are established), c) the construction of public parking spaces, d) construction of a structure or structures containing a maximum of 10,000 square feet of visitor-serving uses on the State Lands parcel; provided that adequate parking is supplied; e) salt marsh enhancement and/or restoration; and f) public recreational trails.
- (2) Any modifications to the development described in this condition shall require an amendment to the permit from the Coastal Commission.
- (3) An approved coastal development permit from the Coastal Commission shall be obtained prior to the establishment of uses to be contained in the Krenwinkle House after it is located on the State Lands parcel.
- (4) Only public access, public recreation, public education, and lower-cost visitor-serving commercial facilities, which are consistent with the Chapter 3 policies of the Coastal Act and with the requirements established by the California State Lands Commission for use of public lands, shall be permitted on the State Lands parcel.
- (5) All office uses are prohibited on the State Lands parcel (excepting offices which are necessary for the administration of, and are adjunct to, the public access and approved visitor-serving uses).
- (6) Parking for the visitor-serving uses on the State Lands parcel shall be provided based on the standards contained in the Hellman Ranch Specific Plan, as adopted by City of Seal Beach Ordinance 1420 on October 20, 1997. A minimum of sixty-two (62) public parking spaces, as depicted on Figure 5-4, Page 5-21 of the coastal development permit application, shall be provided and maintained on-site. Of these 62 public parking spaces, ten (10) shall be reserved for visitors who are not patronizing any of the commercial visitor-serving uses.
- (7) Consistent with Mitigation Measure R-5 of Seal Beach City Council Resolution No. 4562, the permittee or lessee shall install a bicycle rack near the entrance to the proposed pedestrian trail for the saltwater wetland. The bicycle rack shall; 1) be public, 2) be maintained by the permittee, and 3) accommodate a minimum of twenty (20) bicycles.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the

enforceability of the restriction. This lease restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- B. Agreement to be bound.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall obtain a written agreement from the owner of the State Lands parcel, subject to the review and approval of the Executive Director, stating that in the event of termination of the lease, and for so long as the building and facilities constructed pursuant to permit 5-97-367 exist, the owner of the State Lands parcel will agree to require each new or different tenant, occupant or operator, including itself, to sign a lease restriction or other appropriate instrument agreeing to comply with the conditions set forth in Special Condition 3.A. above.
- C. Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, plans for the proposed interpretive center and visitor-serving commercial building which are consistent with the requirements of this permit. The applicant shall comply with the plans approved by the Executive Director.

4. GUM GROVE PARK

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, written evidence demonstrating that the area known as Gum Grove Nature Park and as delineated as Lot 3 of proposed Vesting Tentative Tract Map 15381 has been dedicated in fee to the City of Seal Beach, as proposed by the applicant. The dedication documents shall provide that:

- (a) The park shall be preserved in perpetuity as a passive recreational nature park open to the public. Active recreational activities or commercial facilities shall be prohibited.
- (b) Necessary parking facilities which are the minimum required to serve the park and which meets Americans with Disabilities Act requirements shall be provided. The existing twenty (20) striped parking spaces for Gum Grove Park shall be maintained.
- (c) All new or upgraded trails within the dedicated park area shall be constructed to be accessible to persons with disabilities consistent with Americans with Disabilities Act requirements. New or upgraded trails shall not be lighted in order to minimize impacts on wetlands.
- (d) Small scale interpretive signage which describes the Monarch Butterfly may be permitted if approved by the Executive Director.
- (e) Gum Grove Park shall be open from dawn to dusk on a daily basis. Changes in hours of operation of Gum Grove Park shall require an amendment to this permit unless the Executive Director determines that an amendment is not required.
- (f) Signage shall be conspicuously posted which states that the park is open to the general public.

- (g) That portion of proposed Lot 3 of Tentative Tract Map No. 15381, comprised of an approximately 25 foot wide strip of land which borders Seal Beach Boulevard and extends west from Seal Beach Boulevard to connect with the primarily used part of Gum Grove Park, shall be subject to the following requirements:

(1)The frontage along Seal Beach Boulevard shall not be gated, fenced, or obstructed in any manner which prevents public access from Seal Beach Boulevard.

(2)The area shall be reserved for a public trail and parking lot, which are visible, and directly accessible to the public from Seal Beach Boulevard, and which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west. The public parking lot area shall be large enough for a minimum of ten (10) parking spaces. Where it is not feasible to reserve enough public parking area on this portion of proposed Lot 3, public parking directly accessible from Seal Beach Boulevard shall be provided for on proposed Lot 2 of Tentative Tract Map No. 15381 adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 5.B. of this permit.

5. PUBLIC ACCESS PROGRAM

- A. Public Access Signage.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a detailed signage plan which provides for the installation of signs clearly visible from Pacific Coast Highway and Seal Beach Boulevard which invite and encourage the public to use the public access, parking, and recreation opportunities proposed at Gum Grove Park, the State Lands parcel, and the public access trail and public parking linking Gum Grove Park to Seal Beach Boulevard. Key locations include but are not limited to; 1) the entrance to the State Lands parcel (intersection of First Street and Pacific Coast Highway, and 2) Gum Grove Park, both at its western entrance and at the proposed Seal Beach Boulevard entrance. The plans shall also provide for signage which designates ten (10) of the parking spaces at the State Lands parcel for the exclusive use of trail users and which clearly indicates that the bike racks on the State Lands parcel are for the general public. The plans shall indicate the location, materials, dimensions, colors, and text of the signs. The permittee shall install the signs in accordance with the signage plans approved by the Executive Director.
- B. Residential Community Streets (Vesting Tentative Tract Map No. 15402).** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that: 1) public pedestrian and bicycle access to the streets and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402 shall not be precluded, 2) no locked gates, walls, fences, or other obstructions prohibiting public pedestrian or bicycle access to the streets and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402 shall be permitted, 3) no requirement to allow public vehicular access over the private streets is necessary if the applicant is willing to provide public parking within Gum Grove Park and a separate vehicular entrance from Seal Beach Boulevard to said public parking, 4) if fewer than the ten (10) public parking spaces required by Special Condition 4.(G)(2) of this permit can be constructed on proposed Lot 3 of

Vesting Tentative Tract Map No. 15381, the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3 shall be reserved for the balance of the public parking spaces so that the parking spaces are directly accessible from Seal Beach Boulevard. The deed restriction shall be recorded over the entire area subject to Vesting Tentative Tract Map No. 15402 and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- C. Revised Vesting Tentative Tract Map No. 15402.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two copies of a revised vesting tentative map for Tract No. 15402 if: (1) all of the ten public parking spaces required under Special Condition 4.(G)(2) cannot be built on proposed Lot 3 of Vesting Tentative Tract Map 15381, and/or (2) the entities with jurisdiction over Seal Beach Boulevard do not approve a separate vehicular entrance off of Seal Beach Boulevard to said public parking spaces. The revised map shall show: (1) the locations and design of said public parking spaces which cannot be built on Lot 3 and instead shall be built on the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3, and 2) the location of the public street which connects the public parking required under Special Condition 4.(G)(2) of this permit with the entrance to the subdivision proposed by Vesting Tentative Tract Map No. 15402. The revised map shall be accompanied by written documentation demonstrating that the governmental agencies which have jurisdiction over Seal Beach Boulevard and parking space standards have approved the revised map. The applicant shall record the revised map approved by the Executive Director.
- D. Construction of Trail and Parking Lot.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE HOUSES WITHIN THE AREA SUBJECT TO VESTING TENTATIVE TRACT MAP NO. 15402, the applicant shall construct a public access trail and parking lot, which are visible and directly accessible to the public from Seal Beach Boulevard, which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west. The public parking lot shall contain a minimum of ten (10) parking spaces and shall be directly accessible from Seal Beach Boulevard. Where it is not feasible to construct the public parking and vehicular entrance on this portion of proposed Lot 3 of Vesting Tentative Tract Map No. 15381, public parking directly accessible from Seal Beach Boulevard shall be constructed on proposed Lot 2 of Tentative Tract Map No. 15381 (i.e., the area subject to Vesting Tentative Tract Map No. 15402) immediately adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 5.B of this permit.
- E. Public Trails Deed Restriction.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that:
- (1) Uses within the proposed and required trail areas generally depicted on Exhibit L of the March 19, 1998 staff report (except for the trail depicted linking Gum Grove Park to the State Lands parcel) shall be limited to public access, trail maintenance, emergency access to and from the existing mineral production facilities, and construction and

maintenance of utilities and oil and gas pipelines. Any construction or maintenance activities for utilities and oil and gas pipelines, and emergency access to and from existing mineral production facilities, within the proposed trails, shall be carried out in a manner which minimizes any impact on the use of the surface area of the proposed trails for public access purposes.

- (2) The design of the proposed and required trails and access to the proposed and required trails shall meet the requirements of the Americans with Disabilities Act.
- (3) The proposed and required trails shall be described in metes and bounds and shall be a minimum of twenty-five feet (25') wide with the paved portion being a minimum of ten (10) feet wide.
- (4) The trails shall not be lighted in order to minimize impacts to the wetlands.
- (5) The trails shall be open to the public from dawn to dusk and shall not be gated. Any changes to the hours of operation of the trails shall require an amendment to this permit unless the Executive Director determines that no amendment is required.
- (6) The proposed view overlooks at the ends of the trails shall contain handicap accessible seating.
- (7) The trails shall be, as necessary, partially or fully enclosed with see-through structures, such as cages or arched fences, which protect trail users from errant golf balls.

The deed restriction shall be recorded over the public access trail area as generally depicted on Exhibit L of the March 19, 1998 staff report (except for the trail depicted linking Gum Grove Park to the State Lands parcel) and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. ARCHAEOLOGY

For purposes of this condition, "OHP" shall mean the State Office of Historic Preservation, and "NAHC" shall mean the state Native American Heritage Commission.

- A. Research Design.** The permittee shall undertake the proposed archaeological investigation in conformance with the proposed archaeological research design entitled A Research Design for the Evaluation of Archaeological Sites within the Hellman Ranch Specific Plan Area dated November 1997 prepared by KEA Environmental, Inc. for the City of Seal Beach. Prior to issuance of the coastal development permit, the applicant shall submit written evidence, subject to the review and approval of the Executive Director, that a copy of the archaeological research design has been submitted to the OHP, the NAHC, and the Native American person/group designated or deemed acceptable by the NAHC, for their review and comment. An amendment to this permit shall be required for any changes to the research

design suggested by OHP, NAHC, or the Native American group/person unless the Executive Director determines that an amendment is not required.

- B. Selection of Archaeologist(s) and Native American Monitor(s).** The archaeologist(s) selected by the City shall meet the United States Department of Interior minimum standards for archaeological consultants, as also endorsed by the OHP. The City shall select the Native American monitor(s) in compliance with the "Guidelines for monitors/consultants of Native American cultural, religious and burial sites" issued by the NAHC, and in consultation with the appropriate Native American person/group deemed acceptable by the NAHC.
- C. Post-Investigation Mitigation Measures.** Upon completion of the archaeological investigation, and prior to the commencement of construction of any development (other than archaeological investigation activities or subdivision) located within proposed Lot 2 of proposed Vesting Tentative Tract Map 15381, the applicant shall submit, for the review and approval of the Executive Director, a written report regarding the following: 1) a summary of the findings of the archaeological investigation, and 2) a final written mitigation plan which shall identify recommended mitigation measures, which may include capping of archaeological sites, data recovery and curation of important archaeological resources as defined by the California Environmental Quality Act, and detailed additional mitigation measures which need to be implemented. The applicant shall also submit for review and approval of the Executive Director, a signed contract with a City-selected archaeological consultant that provides for archaeological salvage that follows current accepted professional practice, if additional archaeological data recovery measures are determined appropriate. The written report and additional mitigation measures shall also be submitted to the OHP and the appropriate Native American person/group designated or deemed acceptable by the NAHC. An amendment to this permit shall be required to implement any additional mitigation measures unless the Executive Director determines a permit amendment is not required.
- D. Implementation of Mitigation Measures and Summary of Fieldwork.** Prior to commencement of site preparation, grading, and construction activities for any development (other than archaeological investigation activities) located within a fifty foot (50") radius of the furthest boundary of each state-identified archaeological site as delineated in the archaeological research design, all of the requirements of Special Conditions 5.A., 5B., and 5.C. shall have been met. All development shall occur consistent with the final plan required by Special Condition 5.C. A written synopsis report summarizing all work performed in compliance with Special Conditions 5.A, 5.B, and 5.C shall be submitted to the Executive Director, OHP, and NAHC within six (6) weeks of the conclusion of field work. No later than six months after completion of field work a final report on the excavation and analysis shall be submitted to the Executive Director, OHP and the NAHC.
- E. Monitoring of Construction Activities.** All site preparation, grading and construction activities for the proposed development shall be monitored on-site by a qualified archaeologist and Native American monitor. The archaeologist and Native American monitor shall have the express authority to temporarily halt all work in the vicinity of the discovery site should significant cultural resources be discovered. This requirement shall be incorporated into the construction documents which will be used by construction workers during the course of their work.

F. Discovery of Cultural Resources / Human Remains During Post-Archaeological Testing Construction Activities.

- (1) If additional or unexpected archaeological features are discovered during site preparation, grading, and construction activities for approved development other than the archaeological investigation, all work shall be temporarily halted in the vicinity of the discovery site while the permittee complies with the following:

The archaeologist, in consultation with the Native American monitor, shall sample, identify and evaluate the artifacts as appropriate and shall report such findings to the permittee, the City and the Executive Director. If the archaeological resources are found to be significant, the archaeologist, in consultation with the Native American monitor, shall determine appropriate actions, and shall submit those recommendations in writing to the Executive Director, the applicant and the City. The archaeologist shall also submit the recommendations for the review and approval of the Executive Director and shall be prepared in accordance with the provisions outlined in Special Condition 5.C above. Any recommended changes to the proposed development or the mitigation measures identified in the final plan required by Special Condition 5.C. shall require a permit amendment unless the Executive Director determines that a permit amendment is not required.

Development activities may resume if the cultural resources are not determined to be 'important' as defined by the California Environmental Quality Act (CEQA).

- (2) Should human remains be discovered on-site during the course of site preparation, grading, and construction activities, immediately after such discovery, the on-site City-selected archaeologist and Native American monitor shall notify the City of Seal Beach, Director of Development Services and the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted in the vicinity of the discovery site until the remains can be identified. The Native American group/person deemed acceptable by the NAHC shall participate in the identification process. Should the human remains be determined to be that of a Native American, the permittee shall comply with the requirements of Section 5097.98 of the Public Resources Code. Within five (5) calendar days of such notification, the director of development services shall notify the Executive Director of the discovery of human remains.

- G. Incorporation of Archaeology Requirements into Construction Documents.** Special Condition No. 6 of coastal development permit 5-97-367 shall be incorporated in its entirety into all the construction documents which will be used by construction workers during the course of their work as well as all construction bid documents.

7. WATER QUALITY

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a National Pollutant Discharge Elimination System permit ("NPDES"), Storm Water Pollution Prevention Plan, and Structural and Non-structural Best Management Practices for the proposed project, in compliance with the standards and requirements of the California Regional Water Quality

Control Board. The applicant shall implement and comply with the water quality measures approved by the Executive Director. Runoff from the site shall be directed to the Los Alamitos retarding basin to the maximum extent feasible. The permittee shall comply with mitigation measures WQ-5 through WQ-10 inclusive as approved by City of Seal Beach City Council resolution 4562.

8. HAZARDS

Mitigation Measures WQ-1, WQ-2, WQ-3, WQ-4, GEO-1, GEO-2, GEO-3, GEO-4, GEO-5, GEO-6, GEO-7, and GEO-8 as shown on Exhibit B of City of Seal Beach City Council Resolution 4562 certifying the Hellman Ranch Specific Plan Environmental Impact Report on September 22, 1997 (Exhibit 11 of the September 9, 1998 Staff Report) are hereby incorporated by reference as special conditions of this coastal development permit.

9. FUTURE CONSTRUCTION OF HOMES ON THE MESA

This coastal development permit does not approve development on the lots created by Vesting Tentative Tract Map No. 15402. A future coastal development permit(s) is required for development, such as site preparation, construction of streets, common walls and landscaping, and construction of the actual homes, etc. on the site. Construction spoils, materials, and equipment shall not be placed in any wetland areas.

10. LEGAL INTEREST

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, written documentation demonstrating that it has the legal ability to carry out all conditions of approval of this permit.

11. WETLANDS RESTORATION AREA / CONSERVATION

The wetlands restoration area shall consist of a minimum 52.3 acres of wetlands comprised of: 1) a minimum thirty-nine point one (39.1) acre salt marsh wetland (Phase 1 of the overall salt marsh wetland creation) to be created initially, located adjacent to the Haynes Cooling Channel and connected to the San Gabriel River by a culvert (as generally depicted on Page 4 of Exhibit 1 of the September 9, 1998 staff report as amended by the addendum), and surrounded by a buffer area consistent with the transition zone/densely vegetated berms/upland areas described in the conceptual wetlands restoration plan (dated November 1997) and addendum (dated February 1998), and 2) reservation of a minimum 13.2 acres of mineral production area for future Phase 2 and Phase 3 creation of salt marsh wetlands. The wetlands shall be created, preserved, and maintained as described in the following conditions:

- A. "Phase 1" Initial Proposed Salt Marsh Wetland Restoration Area. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency, private association, or non-profit association approved by the Executive Director an open space and conservation easement, as proposed by the applicant, for the purpose of creating and maintaining a

minimum thirty-nine point one (39.1) acre salt marsh wetland (Phase 1 of the overall salt marsh wetland creation) surrounded by a buffer area consistent with the transition zone/densely vegetated berms/upland areas described in the conceptual wetlands restoration plan (dated November 1997) and addendum (dated February 1998). Such easement shall be over the area of the site located adjacent to the Haynes Cooling Channel and connected to the San Gabriel River by a culvert, including areas in the general vicinity of the green for the 12th hole and the tee for the 13th hole and in the general vicinity of the green for 5th hole and the tee for the 6th hole, as generally depicted on Page 4 of Exhibit 1 of the September 9, 1998 staff report (as amended by the addendum) for this permit. The easement shall:

- (1) Permit the applicant, its agents, and/or the accepting agency or non-profit organization to enter the property, create and maintain habitat, revegetate portions of the area, and fence the newly created/revegetated area in order to protect such habitats.
- (2) Restrict all development, vegetation clearance, fuel modification and grading within the easement except that necessary to establish/maintain the habitat.
- (3) Permit staff of the Coastal Commission and other resources agencies (e.g., California Department of Fish and Game, U.S. Fish and Wildlife Service, etc.) to enter and inspect for purposes of determining compliance with coastal development permit 5-97-367 and other agency approvals.
- (4) No development, as defined in Section 30106 of the Coastal Act shall occur in wetland creation areas and wetland buffer areas except for the creation and maintenance of habitat and fencing of the created habitat in order to protect such habitats.

The easement area shall be described in metes and bounds. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The offer shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

B. Reservation of Mineral Production Area for Phase 2 and Phase 3 Wetland Creation.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that the allowable uses and allowable development on both the entire 4.5 acre area of mineral-production facilities immediately to the southeast of the Haynes Cooling Channel (Lot 7 of Vesting Tentative Tract Map 15381) and the 8.7 westernmost acres of mineral-production facilities immediately to the southeast of the Haynes Cooling Channel (Lot 6 of Vesting Tentative Tract Map 15381) shall, either at the time the on-site mineral-production ceases or on April 15, 2023 (whichever occurs earlier), be restricted to; 1) the removal of the existing

mineral-production facilities, 2) removal of contaminants and remediation of the site, and 3) wetland habitat creation/restoration and conservation/open space. The deed restriction shall be recorded over the revised lot of Vesting Tentative Tract Map 15381 which contains the wetlands, golf course, and mineral-production facilities, and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

12. **FINAL WETLAND RESTORATION PROGRAM**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a final wetland restoration program for the proposed project. The program shall be developed in consultation with the Commission, California Department of Fish and Game, and U.S. Fish and Wildlife Service and at a minimum shall include:

- A. A detailed final site plan of the existing degraded and severely degraded wetlands and a detailed final site plan of the wetland creation restored sites that substantially conform with the plans contained in the Addendum to Concept Wetlands Restoration Plan for the Hellman Ranch ("Addendum") dated February, 1998 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management (M&N File: 3693) and the Concept Wetlands Restoration Plan for the Hellman Ranch ("Concept Plan") revised November, 1997 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management, as revised as follows:

(1)The proposed initial "Phase 1" Salt Marsh Wetland shall be a minimum thirty-nine point one (39.1) acre salt marsh wetland (Phase 1 of the overall salt marsh wetland creation) surrounded by a buffer area consistent with the transition zone/densely vegetated berms/upland areas described in the conceptual wetlands restoration plan (dated November 1997) and addendum (dated February 1998).

(2)Revise Figures A1, A4, and A7 of the Addendum to reflect that the Phase 1 Salt Marsh Wetland has been expanded, to a minimum 39.1 acres, in the general vicinity of the green for the 12th hole and the tee for the 13th hole and in the general vicinity of the green for 5th hole and the tee for the 6th hole, as generally depicted on Page 4 of Exhibit 1 of the September 9, 1998 staff report (as amended by the addendum) for coastal development permit application 5-97-367.

- B. The baseline ecological assessment of the existing degraded and severely degraded wetland area submitted with the coastal development permit application.
- C. A final overlay map (if a large scale map is produced, a reduced 8 1/2"x11" or 11"x17" copy shall be included in the program) which superimposes the following:

(1)The twenty-five (25) acres of degraded wetland as mapped by the California Department of Fish and Game in its January 13, 1982 Determination of the Status of

Wetlands Within the City of Seal Beach, Immediately South and East of the San Gabriel River Channel (Ponderosa Seal Beach Wetlands);

(2)The current 1996 wetlands delineation (27 acres) of the project site prepared by Coastal Resources Management & Chambers Group as shown on Figure 4-7, Page No. 4-13 of the application for coastal development permit 5-97-367;

(3)The areas of wetland fill resulting from the golf course and resulting from creation of the required minimum 39.1 acres of salt marsh; and

(4)The required minimum 39.1 acres of Phase 1 (initial creation) salt marsh areas.

D. Monitoring and Remediation

The monitoring and remediation component of the final wetland restoration program shall include the following:

(1) Statement of Goals and Objectives

The statement of goals and objectives shall specify that the goals of the restoration and habitat construction plans shall be to provide subtidal basin and channel, mudflat, low salt marsh, high salt marsh, upland transition/buffer, and similar in composition, diversity, and abundance to equivalent well-functioning natural habitats, and that it is intended that the restored and created tidal wetlands will be self-sustaining.

(2) Construction and Restoration

Construction of the Phase 1 initial wetland habitats shall occur concurrent with golf course construction. A post-construction survey, to be submitted within ninety (90) days of completion of construction to the Executive Director for review and approval, shall be carried out by the permittee to demonstrate that the wetland and transitional habitats were built to the approved specifications. If the Executive Director determines that the restoration and construction was not accomplished to specifications, the permittee shall modify the restored and created wetlands, in consultation with the California Department of Fish and Game and subject to the review and approval of the Executive Director, to meet the approved specifications within six (6) months of the post-construction survey. The Executive Director may grant a one-time extension of time to these deadlines for good cause.

The initial planting shall be completed within six (6) months after construction is completed. The applicant may continue planting and other restoration activities within the tidal wetlands for three (3) years following construction with the approval of the Executive Director.

(3) Purpose and Timing of Monitoring and Remediation

After the initial restoration and construction of the initial Phase 1 wetlands and associated upland transitional habitats is completed, the wetlands and transitional habitats will be monitored, managed, and, if necessary, remediated. Monitoring shall be implemented to determine whether the performance standards of this condition are met and, if any performance standards are not met, to determine the reasons for the inadequate performance and identify, in consultation with state and federal resources agencies (e.g., the U.S. Fish and Wildlife Service and the California Department of Fish and Game), appropriate remedial measures.

The wetlands and transitional habitats shall be monitored for a period of ten (10) years following completion of construction to measure the success of the restored and created wetlands in achieving the performance standards specified in subsection (6) below. Upon completion of ten (10) years of independent monitoring that demonstrates that the restored and constructed habitats are in compliance with the performance standards, independent annual site inspections shall be conducted for an additional five (5) years to identify any noncompliance with the performance standards.

If the performance standards are not being met, then the permittee shall conduct an independent study to collect, in consultation with the state and federal resources agencies, the information necessary to determine what remediation is needed. The Executive Director, in consultation with state and federal resources agencies, shall determine the required remedial action based on information from the independent study. The permittee shall be required to implement any remedial measures determined necessary by the Executive Director in consultation with state and federal resources agencies. The remedial actions shall be monitored as described herein.

The monitoring plan shall describe the sampling methodology and analytical techniques, which shall be developed in consultation with state and federal resources agencies, for measuring performance relative to the performance standards set forth in subsection (6) below.

(4) Independent Monitoring Biologist

An independent biologist to monitor the establishment and success of the salt marsh shall be selected by the applicant and approved by the Executive Director, and funding for the monitor biologist shall be provided by the applicant for a period of ten (10) years.

(5) Reference Sites

At least three reference sites shall be selected, in consultation with the California Department of Fish and Game and subject to the review and approval of the Executive Director. The reference sites shall be relatively undisturbed natural tidal wetlands located in at least two separate geographic areas within the Southern California bight. The salt marsh reference sites shall have resident populations of Belding's Savannah sparrows. Reference sites must be accessible to the independent monitor and shall contain habitat of interest and shall be characterized by a muted tidal regime similar to the proposed salt marsh.

(6) Success Criteria/Performance Standards

Performance standards shall be either fixed values or defined variables. The monitoring of the salt marsh shall be in compliance with the standards and criteria contained in the Concept Plan, except that: 1) exotic, invasive, and non-native species shall be excluded from any assessment of performance standards, and 2) the proposed performance standards shall be modified as follows for the various proposed habitat zones (the performance standards and success criteria shall be met within the first five (5) years after completion of construction of the Phase 1 salt marsh):

a. Transition Zones

The permittee shall provide a management plan for the proposed berm ringing the salt marsh which serves as transition/buffer area. The plan shall also provide for salvage and ongoing maintenance and management of coulter's goldfield and southern tarplant. The management plan shall be applied to all native species, not just sensitive species.

b. High Salt Marsh

Vegetation in the High Salt Marsh shall contain at least seventy-five percent (75%) as many of the same native species (both in quantity and type) as the least speciose reference site. The average vegetative cover (all native species combined) shall be at least as great as the average vegetative cover at the reference site with the lowest vegetative cover. The average plant height for each species shall be at least seventy-five percent (75%) of the average height of the same species at the reference site with the lowest average plant height, except that pickleweed (*salicornia virginica*) shall be no less than twenty centimeters (20 cm) in average height.

c. Low Salt Marsh

The average vegetative cover shall be at least as great as the average vegetative cover at the reference site with the lowest vegetative cover. The average plant height for each species shall be at least seventy-five percent (75%) of the average height of the same species at the reference site with the lowest average plant height, except that pickleweed (*salicornia virginica*) shall be no less than twenty centimeters (20 cm) in average height (refer also to performance standards for birds in subsection f).

d. Mud Flat

The species composition and abundance of the epifauna (i.e., invertebrates which live on top of the sediment) and infauna (i.e., invertebrates which live in the sediment), shall be estimated at both the project and reference sites. The standards for birds are discussed in subsection f below.

e. Subtidal Basin and Channels

The species composition and abundance of the epifauna and infauna shall be estimated at both the project and reference sites. The total number of fish species shall be seventy-five percent (75%) as great as the reference site with the lowest number of species. The average total number of individual fish shall be seventy-five percent (75%) as great as the reference site with the lowest average total number of individuals. The performance standards for birds are discussed in subsection f below.

f. Birds in all habitats

Performance standards will only apply to wading birds and shorebirds in tidal wetlands. For wading birds and shorebirds, the average number of species present, the average total number of individuals present, and the foraging use of the tidal wetlands shall be similar during the winter and during the summer at the project site and at the reference sites. During the winter and during the summer, a general bird survey of each habitat will be conducted to document the species present and their approximate abundance. In addition, an annual survey to document the presence, abundance, and habitat use of Belding's Savannah sparrows will be conducted in the spring of each year.

- E. The final design and construction methods that will be used to ensure the mitigation site achieves the defined goals, objectives, and performance standards, and final construction plans.
- F. Preliminary remedial measures and provisions which require the final remedial measures to be determined in consultation with the Coastal Commission ("CCC"), California Department of Fish and Game ("CDFG"), and the U.S. Fish and Wildlife Service ("USFWS"). The determination that the wetlands have established and are functioning at a level where they no longer require remediation shall be made by the CCC, CDFG, and USFWS.
- G. Provisions for submittal, within thirty (30) days of completion of initial restoration work, of "as built" plans demonstrating that the Phase 1 saltwater marsh wetlands have been constructed in accordance with the approved design and construction methods.
- H. A written final detailed plan for financing the actual cost of constructing, establishing, and maintaining in perpetuity all approved wetlands. The plan shall provide that the landowner, property manager, and golf course owner/operator are ultimately responsible in perpetuity for wetland maintenance, as proposed in Sections 5.5.1 and 6.5.1 of the "Concept Wetlands Restoration Plan for the Hellman Ranch" revised November, 1997 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management. In addition to the restoration obligations as delineated in Special Condition 12.D. above regarding monitoring and remediation, the applicant shall be responsible for maintenance of the Phase 1 (initial construction) of the required minimum 39.1 acre salt marsh for a period of ten (10) years commencing with the start of construction of the wetlands or until the conservation easement over the salt marsh is accepted, whichever occurs later. If the conservation easement is accepted, the accepting agency shall be responsible for maintenance of the salt marsh. The plan shall indicate, at a minimum; 1) the sources of funding, 2) projected costs of constructing, establishing, and maintaining in perpetuity all approved wetlands, and 3) require that costs of on-going maintenance of the wetlands, including monitoring by the independent biologist, shall be paid out of the golf course revenue before any other costs incurred by the golf course, landowner, and its owner/operator.
- I. Periodic cleaning and maintenance of the culvert connecting the salt marsh to the San Gabriel River.

- J. Periodic removal of invasive, non-native plants from the saltwater marsh wetland areas in perpetuity to ensure maintenance of wetland habitat values.
- K. Invasive, exotic, non-native plants shall not be used anywhere in the golf course except as approved by state and federal resources agencies.
- L. All construction activities for the golf course and the wetlands, shall not occur during the nesting seasons of sensitive species unless the California Department of Fish and Game provides a written determination to the Executive Director that construction during a particular nesting season will not result in harm to the nesting species, and the determination is accepted by the Executive Director.
- M. Prior to commencement of construction of the golf course, the proposed wetland, shall be staked and signed in a manner which clearly demonstrates to construction crews that the wetland areas are not to be entered for any reason.

The permittee shall undertake development in accordance with the final wetland restoration program approved by the Executive Director. Any proposed changes to the approved final program shall be reported to the Executive Director. No changes to the approved final program shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

13. GOLF COURSE OPERATIONS AND GOLFER WETLAND EDUCATION PROGRAM

- A. Timing of Golf Course Construction. Prior to commencement of construction of the golf course, the proposed archaeological test program (including all required excavation and development of reasonable mitigation measures) shall have been completed for those sites impacted by golf course development (ORA-261, -262, -850, and -851).
- B. Timing of Golf Course Opening. The golf course shall not be opened for use until the Phase 1 saltwater marsh wetlands have been constructed in accordance with the final wetlands restoration program approved by the Executive Director, as required in Special Condition No. 12 regarding the Final Wetland Restoration Program.
- C. Golf ball retrieval. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a written plan which describes in detail the proposed method for retrieving golf balls from the wetland. The plan shall include the following: 1) a controlled program for golf ball retrieval which minimizes impacts to the wetlands, and 2) golf balls shall not be retrieved from the wetlands by golfers themselves under any circumstances. The golf course operator shall comply with the plan approved by the Executive Director.
- D. Golfer education on wetlands. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a detailed written plan which describes the methods by which users of the golf course will be informed of the wetlands areas (e.g., signage, brochures, instructions printed on score cards, etc., which instruct golfers not to enter wetland or wetland buffer areas).

- E. Golf Course Deed Restriction. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that:
- (1) The applicant, golf course owner/operator and/or wetlands manager/owner shall implement and comply with the final wetland restoration program approved by the Executive Director.
 - (2) Development and management of the golf course shall be in compliance with the document An Environmental Approach to Golf Course Development & Management prepared for Hellman Properties LLC by Siena College-Audubon International Institute dated December 1996 as proposed by the applicant.
 - (3) Native plant species shall be used to the maximum extent possible throughout the golf course. No invasive exotic species listed by the California Exotic Pest Plan Council as unwanted species will be used in the golf course. In addition, the final golf course plant palette will be subject to review and approval by the Executive Director.
 - (4) The applicant and golf course owner/operator shall implement and comply with the final golf ball retrieval plan approved by the Executive Director.
 - (5) The golf course shall not be lighted nor shall it be open for night play.
 - (6) The golfer education program approved by the Executive Director shall be complied with and implemented.
 - (7) Wetlands areas shall be designated as lateral hazards, so indicated by red stakes or lines in accordance with the provisions of "the U.S.G.A. 1998 Official Rules Of Golf", in which golfers shall not enter and over which golfers shall not hit a penalty shot resulting from hitting a ball into the wetlands.
 - (8) The golf course shall be open to the general public during all hours of operation.
 - (9) The golf course shall not be converted to a private membership course.
 - (10) Signs shall be installed which are clearly visible to the general public which inform the general public that the golf course is open for play to the public.
 - (11) Public parking for the golf course shall be provided at all times based on the standards contained in the Hellman Ranch Specific plan adopted by City of Seal Beach City Council Ordinance No. 1420 on October 27, 1997 (Hellman Ranch Specific Plan Amendment 97-1).

The deed restriction shall be recorded over the revised lot, containing the golf course, wetlands, and mineral-production facilities, of Vesting Tentative Tract Map 15381 and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This

deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- F. Final Golf Course Plan Designs. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, final design and construction plans for the proposed golf course. The final plans shall be in substantial compliance with the final wetland restoration plan approved by the Executive Director and the document entitled "An Environmental Approach to Golf Course Development & Management" prepared for Hellman Properties LLC by Siena College-Audubon International Institute dated December 1996.
- G. Final Plans for the Golf Clubhouse. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, final plans for the golf clubhouse. Public access shall be maintained to all common areas of the public golf clubhouse. Public parking for the golf clubhouse shall be provided at all times based on the standards contained in the Hellman Ranch Specific plan adopted by City of Seal Beach City Council Ordinance No. 1420 on October 27, 1997 (Hellman Ranch Specific Plan Amendment 97-1).

14. RESIDENTIAL DEVELOPMENT-TIMING OF CONSTRUCTION

Residential development, including subdivision improvements and home construction, shall not commence until construction of the Phase 1 initial salt marsh wetlands has commenced. The homes shall not be occupied until all the following occur: 1) construction of the Phase 1 initial salt marsh wetlands has been completed, and 2) Gum Grove Park has been dedicated to the City of Seal Beach.

APPENDIX B: Substantive File Documents

1. COASTAL DEVELOPMENT PERMITS AND COMMISSION ACTIONS

- A. Coastal Conservancy Project #1-82; Approved 4/22/82
- B. 5-82-221 (Ponderosa Homes); withdrawn 11/17/82
- C. 5-89-514 (MOLA Development Corporation); denied 11/14/89
- D. 5-89-1087 (MOLA Development Corporation); approved 1/12/90
- E. 6-90-219 [Batiquitos Lagoon restoration and enhancement]
- F. 5-97-367 (Hellman Properties LLC); approved September 9, 1998.

2. WETLAND AND BIOLOGICAL RESOURCES DOCUMENTS

- A. An Assessment of Wetland Resources Within the City of Seal Beach South of the San Gabriel River, prepared by Bob Radovich of the California Department of Fish and Game, June 1980.
- B. Determination of the Status of Wetlands Within the City of Seal Beach, Immediately South and East of the San Gabriel River Channel (Ponderosa Seal Beach Wetlands), prepared by the California Department of Fish and Game, January 13, 1982.
- C. Conceptual Wetlands Restoration Plan for the Hellman Ranch dated November 1997 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management.
- D. Addendum to Concept Wetlands Restoration Plan for the Hellman Ranch dated February, 1998 prepared for Hellman Properties LLC by Moffatt & Nichol Engineers (M&N) File: 3693) in association with Coastal Resources Management
- E. Hellman Ranch Wetland Restoration Feasibility Study dated July 20, 1998 prepared for The Port of Long Beach by Moffatt & Nichol Engineers (M&N File: 3693)
- F. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated September 11, 2000, regarding Response to June 19, 2000, letter from the California Department of Fish and Game Regarding Biological Resources at Hellman Ranch.
- G. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated June 28, 2000, regarding Biological Benefits of Proposed Wetland Treatment System, CDP 5-97-367-A1, Hellman Ranch Property, Orange County, California.

- H. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes dated January 6, 2000, regarding Results of Biological Resources Review and Analysis of Wetland Impacts Associated with 18.4-Acre Portion of the Hellman Ranch Property, Orange County, California.
- I. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes dated February 23, 2000, and revised July 14, 2000, regarding Results of Focused Surveys Conducted for Western Burrowing Owl on 18.4-acre Portion of the Hellman Ranch Property, Orange County, California.

3. WATER QUALITY DOCUMENTS

- A. State Water Resources Control Board Order No. 99-08-DWQ, National Pollution Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction Activity.
- B. California Regional Water Quality Control Board, Santa Ana Region, Order No. 96-31, NPDES No. CAS618030, Waste Discharge Requirements for the County of Orange, Orange County Flood Control District, and the Incorporated Cities of Orange County within the Santa Ana Region, Areawide Urban Storm Water Run-off, Orange County.
- C. Orange County NPDES Stormwater Program, Drainage Area Management Plan, April 1993.
- D. Storm Water Management & Water Quality Control Plan, prepared for Hellman Properties LLC and John Laing Homes, prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000.
- E. Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared for John Laing Homes by MDS Consulting of Irvine, California, dated January 2000.

4. OTHER DOCUMENTS

- A. Final Environmental Impact Report for the Hellman Ranch Specific Plan dated August 1997 prepared by P&D Consultants for the City of Seal Beach (State Clearinghouse No. 96121009) and certified by City of Seal Beach City Council Resolution 4562 on September 19, 1997.
- B. "Development Agreement by and Between the City of Seal Beach and Hellman Properties, LLC Relative to the Development known as the Hellman Ranch" dated October 27, 1997
- C. A Research Design for the Evaluation of Archaeological Sites within the Hellman Ranch Specific Plan Area dated November 1997 prepared by KEA Environmental, Inc. for the City of Seal Beach

APPENDIX C: Local Approvals

- 1) City of Seal Beach City Council Resolution 4570 approving Tentative Tract Map No. 15381 (subdivision of site into 9 lots)
- 2) City of Seal Beach City Council Resolution 4571 approving Tentative Tract Map No. 15402 (Residential subdivision);
- 3) City of Seal Beach Ordinance 1420 adopting the Hellman Ranch Specific Plan
- 4) City of Seal Beach Resolution 4562 approving the Final Environmental Impact Report for the Hellman Ranch Specific Plan; October 27, 1997
- 5) Development Agreement
- 6) City of Seal Beach, Approval-in-concept of revised Tentative Tract Map No. 15402 (Residential subdivision) dated April 26, 2000.
- 7) City of Seal Beach Ministerial Approval of Administrative Amendments to the Hellman Ranch Specific Plan dated May 5, 2000.